

104TH CONGRESS
2D SESSION

H. R. 3520

To provide for retirement savings and security.

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 1996

Mr. GEPHARDT (for himself, Mr. BONIOR, Mr. BENTSEN, Mr. GEJDENSON, Mr. POMEROY, Mr. SAWYER, Mr. FAZIO of California, Mrs. KENNELLY, Mr. DINGELL, Mr. GIBBONS, Mr. CLAY, Mr. LAFALCE, Mr. OBERSTAR, Mr. DURBIN, Mr. JOHNSON of South Dakota, Mr. KENNEDY of Massachusetts, Mr. STARK, Mr. MATSUI, Mr. COYNE, Mr. LEVIN, Mr. McDERMOTT, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. MILLER of California, Mr. WILLIAMS, Mr. ANDREWS, Mr. GENE GREEN of Texas, Ms. WOOLSEY, Mr. FATTAH, Ms. DELAURO, Mr. MURTHA, Mr. OBEY, Mr. FROST, Mr. BROWN of California, Mr. YATES, Mr. GONZALEZ, Mr. STUDDS, Mr. MARKEY, Mr. RAHALL, Mr. VENTO, Mr. EVANS, Ms. KAPTUR, Mr. SPRATT, Mr. TORRES, Mr. TOWNS, Mr. WISE, Mr. KANJORSKI, Mr. THORNTON, Mr. COSTELLO, Ms. SLAUGHTER, Mrs. LOWEY, Mr. SERRANO, Mr. OLVER, Mr. FILNER, Mr. GUTIERREZ, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HOLDEN, Mrs. MEEK of Florida, Mr. SCOTT, Mr. STUPAK, Mrs. THURMAN, Ms. VELÁZQUEZ, Mr. WYNN, Mr. BALDACCI, Ms. LOFGREN, Mr. FALEOMAVAEGA, and Mr. SANDERS) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Economic and Educational Opportunities, Government Reform and Oversight, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for retirement savings and security.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Retirement Savings and Security Act”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—REVENUE PROVISIONS

Sec. 1100. Amendment of 1986 Code.

Subtitle A—Expanded Pension Coverage and Simplification

CHAPTER 1—THE NEST AND OTHER COVERAGE EXPANSION

Sec. 1101. Establishment of national employee savings trusts for employees of small employers.

Sec. 1102. Tax-exempt organizations eligible under section 401(k).

Sec. 1103. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.

Sec. 1104. Repeal of family aggregation.

Sec. 1105. Definition of highly compensated employees.

Sec. 1106. Repeal of limitation in case of defined benefit plan and defined contribution plan for same employee.

Sec. 1107. Contributions on behalf of disabled employees.

Sec. 1108. Plans covering self-employed individuals.

Sec. 1109. Trust requirement for deferred compensation plans of State and local governments.

Sec. 1110. Treatment of certain disability benefits received by former police officers or firefighters.

CHAPTER 2—SIMPLIFICATION AND COST SAVINGS

Sec. 1201. Treatment of governmental and multiemployer plans under section 415 and treatment of excess benefit plans.

Sec. 1202. Definition of compensation for section 415 purposes.

Sec. 1203. Assumptions for adjusting certain benefits of defined benefit plans for early retirees.

Sec. 1204. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.

Sec. 1205. No required distributions for active employees.

Sec. 1206. Simplified method for taxing annuity distributions under certain employer plans.

Sec. 1207. Repeal of 5-year income averaging for lump-sum distributions.

Sec. 1208. Elimination of half-year requirements.

Sec. 1209. Distributions under rural cooperative plans.

Sec. 1210. Modification of additional participation requirements.

Sec. 1211. Uniform retirement age.

Sec. 1212. Treatment of leased employees.

- Sec. 1213. Full funding limitation for multiemployer plans.
- Sec. 1214. Elimination of partial termination rules for multiemployer plans.
- Sec. 1215. Elective deferrals under section 403(b).
- Sec. 1216. Uniform penalty provisions to apply to certain pension reporting requirements.
- Sec. 1217. Tax on prohibited transactions.
- Sec. 1218. Date for adoption of plan amendments.

Subtitle B—Expanded Individual Retirement Accounts to Increase Coverage
and Portability

CHAPTER 1—RETIREMENT SAVINGS INCENTIVES

SUBCHAPTER A—IRA DEDUCTION

- Sec. 1301. Increase in income limitations.
- Sec. 1302. Inflation adjustment for deductible amount and income limitations.
- Sec. 1303. Coordination of IRA deduction limit with elective deferral limit.

SUBCHAPTER B—NONDEDUCTIBLE TAX-FREE IRAS

- Sec. 1311. Establishment of nondeductible tax-free individual retirement accounts.

CHAPTER 2—DISTRIBUTIONS AND INVESTMENTS

- Sec. 1321. Distributions from IRAs may be used without additional tax to purchase first homes, to pay higher education or financially devastating medical expenses, or by the unemployed.
- Sec. 1322. Contributions must be held at least 5 years in certain cases.
- Sec. 1323. Investments in qualified State prepaid tuition programs.

CHAPTER 3—TERMINATION OF CERTAIN PROVISIONS

- Sec. 1331. Termination of certain provisions

Subtitle C—Other Expansions of Pension Portability

- Sec. 1401. Alternative nondiscrimination rules for certain plans that provide for early participation.
- Sec. 1402. Treatment of certain veterans' reemployment rights.
- Sec. 1403. Elimination of special vesting rule for multiemployer plans.

Subtitle D—Conforming Amendments

- Sec. 1501. Conforming amendment relating to missing participants.
- Sec. 1502. Conforming amendments relating to ERISA enforcement.

TITLE II—ERISA PROVISIONS

- Sec. 2000. Amendment of ERISA.

Subtitle A—Expanded Pension Coverage and Simplification

- Sec. 2001. Reporting and fiduciary requirements relating to NESTs.
- Sec. 2002. Elimination of requirement for plan descriptions and the filing requirement for summary plan descriptions and descriptions of material modifications to a plan; technical corrections.
- Sec. 2003. Conforming amendment relating to investment in qualified State prepaid tuition programs.

Subtitle B—Portability

- Sec. 2011. Missing participants.
- Sec. 2012. Elimination of special vesting rule for multiemployer plans.
- Sec. 2013. Treatment of loans during military service.

Subtitle C—Enhanced Security

CHAPTER 1—GENERAL PROVISIONS

- Sec. 2021. Multiemployer plan benefits guaranteed.
- Sec. 2022. Reversion report.
- Sec. 2023. Full funding limitation for multiemployer plans.
- Sec. 2024. Prohibited transactions.
- Sec. 2025. Substantial owner benefits.

CHAPTER 2—ERISA ENFORCEMENT

- Sec. 2031. Short title.
- Sec. 2032. Repeal of limited scope audit.
- Sec. 2033. Reporting and enforcement requirements for employee benefit plans.
- Sec. 2034. Additional requirements for qualified public accountants.
- Sec. 2035. Clarification of fiduciary penalties.

TITLE III—ADDITIONAL RETIREMENT PARTICIPATION AND
PAYMENT OPTIONS FOR FEDERAL EMPLOYEES

- Sec. 3001. Immediate participation in the Thrift Savings Plan for Federal employees.
- Sec. 3002. Deferred annuities for surviving spouses of Federal employees.
- Sec. 3003. Payment of lump-sum credit for former spouses of Federal employees.

TITLE IV—CONFORMING RAILROAD RETIREMENT BENEFITS
WITH SOCIAL SECURITY

- Sec. 4001. Child's annuity.
- Sec. 4002. Entitlement to spousal annuities.
- Sec. 4003. Continued payment to survivors of waived lump sum benefits in amounts equivalent to social security survivor benefits.
- Sec. 4004. Lump sum death benefits equivalent to social security benefits.
- Sec. 4005. Payment of benefits equivalent to social security benefits with respect to service for which certain railroad retirement annuities are not payable.
- Sec. 4006. Effective date.

1 **TITLE I—REVENUE PROVISIONS**

2 **SEC. 1100. AMENDMENT OF 1986 CODE.**

3 Except as otherwise expressly provided, whenever in
4 this title an amendment or repeal is expressed in terms
5 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a
 2 section or other provision of the Internal Revenue Code
 3 of 1986.

4 **Subtitle A—Expanded Pension**
 5 **Coverage and Simplification**

6 **CHAPTER 1—THE NEST AND OTHER**
 7 **COVERAGE EXPANSION**

8 **SEC. 1101. ESTABLISHMENT OF NATIONAL EMPLOYEE SAV-**
 9 **INGS TRUSTS FOR EMPLOYEES OF SMALL EM-**
 10 **PLOYERS.**

11 (a) IN GENERAL.—Section 408 (relating to individual
 12 retirement accounts) is amended by redesignating sub-
 13 section (p) as subsection (q) and by inserting after sub-
 14 section (o) the following new subsection:

15 “(p) NESTs.—

16 “(1) IN GENERAL.—For purposes of this title,
 17 the term ‘NEST’ means an individual retirement ac-
 18 count or annuity established under a written plan of
 19 an eligible employer—

20 “(A) which meets the requirements of
 21 paragraphs (4), (5), (6), (7), and (8), and

22 “(B) under which contributions are made
 23 to NESTs solely in accordance with a qualified
 24 formula.

1 “(2) QUALIFIED FORMULA.—For purposes of
2 this subsection—

3 “(A) IN GENERAL.—The term ‘qualified
4 formula’ means a contribution formula which
5 meets the requirements for—

6 “(i) a 3-percent formula under sub-
7 paragraph (B), or

8 “(ii) a matching-contribution formula
9 under subparagraph (C).

10 “(B) 3-PERCENT FORMULA.—

11 “(i) NONELECTIVE CONTRIBU-
12 TIONS.—The requirements of the 3-percent
13 formula are met if, pursuant to the terms
14 of the plan, the employer makes nonelec-
15 tive contributions of 3 percent of com-
16 pensation for each eligible employee who
17 has at least \$5,000 of compensation from
18 the employer for the year.

19 “(ii) ELECTIVE CONTRIBUTIONS.—A
20 plan shall not fail to meet the require-
21 ments of this subparagraph merely be-
22 cause, pursuant to the terms of the plan,
23 an eligible employee may elect to have the
24 employer make payments—

1 “(I) as elective contributions to
2 the NEST on behalf of the employee,
3 or

4 “(II) to the employee directly in
5 cash.

6 “(C) MATCHING-CONTRIBUTION FOR-
7 MULA.—The requirements of the matching-con-
8 tribution formula are met if, pursuant to the
9 terms of the plan—

10 “(i) the employer makes nonelective
11 contributions of 1 percent of compensation
12 for each eligible employee who has at least
13 \$5,000 of compensation from the employer
14 for the year,

15 “(ii) an eligible employee may elect to
16 have the employer make payments—

17 “(I) as elective contributions to
18 the NEST on behalf of the employee,
19 or

20 “(II) to the employee directly in
21 cash, and

22 “(iii) the employer makes matching
23 contributions on behalf of each eligible em-
24 ployee in an amount equal to—

1 “(I) 100 percent of the elective
2 contributions of the employee to the
3 extent such elective contributions do
4 not exceed 3 percent of the employee’s
5 compensation, and

6 “(II) a uniform percentage
7 (which is at least 50 percent but not
8 more than 100 percent) of the elective
9 contributions of the employee to the
10 extent that such elective contributions
11 exceed 3 percent but do not exceed 5
12 percent of the employee’s compensa-
13 tion.

14 “(D) DISCRETIONARY CONTRIBUTIONS.—A
15 plan shall not be treated as failing to meet the
16 requirements of this paragraph merely because,
17 pursuant to the terms of the plan, an employer
18 makes nonelective contributions under subpara-
19 graph (B)(i) or (C)(i) in excess of 3 percent or
20 1 percent of compensation, respectively, but
21 only if all such contributions bear a uniform re-
22 lationship to the compensation of each eligible
23 employee and do not exceed 5 percent of com-
24 pensation for any eligible employee.

1 “(E) LIMITATION ON ELECTIVE CONTRIBU-
2 TIONS.—Elective contributions to a NEST
3 under subparagraph (B)(ii) or (C)(ii) shall not
4 be treated as made pursuant to a qualified for-
5 mula if such contributions on behalf of any em-
6 ployee for a year exceed the greater of \$5,000
7 or one-half of the limitation applicable for the
8 year to elective deferrals under section 402(g).

9 “(F) COMPENSATION LIMIT.—Contribu-
10 tions to a NEST shall not be treated as made
11 pursuant to a qualified formula if the annual
12 compensation taken into account for any em-
13 ployee under the formula exceeds the limitation
14 imposed by section 401(a)(17).

15 “(G) LOWER COMPENSATION THRESHOLD
16 PERMITTED.—A plan shall not be treated as
17 failing to meet the requirements of this para-
18 graph merely because, pursuant to the terms of
19 the plan, an employer makes nonelective con-
20 tributions under subparagraph (B)(i) or (C)(i)
21 to each eligible employee who has compensation
22 from the employer for the year in excess of a
23 uniform compensation threshold which is less
24 than \$5,000.

25 “(H) For purposes of this paragraph—

1 “(i) IN GENERAL.—The term ‘com-
2 pensation’ has the meaning given such
3 term by section 414(q)(3).

4 “(ii) SELF-EMPLOYED INDIVID-
5 UALS.—Notwithstanding clause (i), in the
6 case of an employee within the meaning of
7 section 401(c)(1), compensation under sec-
8 tion 414(q)(3) shall be determined without
9 regard to paragraph (2)(A) (v) and (vi) of
10 section 401(c).

11 “(3) DEFINITIONS.—For purposes of this sub-
12 section—

13 “(A) ELIGIBLE EMPLOYER.—

14 “(i) IN GENERAL.—The term ‘eligible
15 employer’ means, with respect to any year,
16 an employer which had no more than 100
17 employees who received at least \$5,000 of
18 compensation from the employer for the
19 preceding year.

20 “(ii) 2-YEAR GRACE PERIOD.—An eli-
21 gible employer who establishes and main-
22 tains a plan under this subsection for 1 or
23 more years and who fails to be an eligible
24 employer for any subsequent year shall be
25 treated as an eligible employer for the 2

1 years following the last year the employer
2 was an eligible employer. If such failure is
3 due to any acquisition, disposition, or simi-
4 lar transaction involving an eligible em-
5 ployer, the preceding sentence shall apply
6 only in accordance with rules similar to the
7 rules of section 410(b)(6)(C)(i).

8 “(B) EMPLOYEE.—The term ‘employee’ in-
9 cludes an employee as defined in section
10 401(c)(1).

11 “(C) ELIGIBLE EMPLOYEE.—

12 “(i) IN GENERAL.—The term ‘eligible
13 employee’ means, with respect to any year,
14 any employee who, prior to such year—

15 “(I) completed 2 consecutive
16 years of service with the employer,
17 and

18 “(II) attained 21 years of age.

19 A plan may provide a uniform shorter pe-
20 riod of service or lower age to apply in lieu
21 of those under the preceding sentence.

22 “(ii) EXCLUDABLE EMPLOYEES.—An
23 employer may elect not to treat employees
24 described in section 410(b)(3) as eligible
25 employees.

1 “(iii) YEAR OF SERVICE.—For pur-
2 poses of this paragraph, an employee shall
3 be treated as completing a year of service
4 for each year for which the employee re-
5 ceives at least \$5,000 of compensation
6 from the employer.

7 “(D) COMPENSATION.—For purposes of
8 this paragraph, the term ‘compensation’ means
9 wages within the meaning of section 3401(a)
10 and all other payments of compensation to an
11 employee by the employer with respect to which
12 the employer is required to furnish the em-
13 ployee a written statement under sections
14 6041(d), 6051(a)(3), and 6052. In the case of
15 an employee (within the meaning of section
16 401(c)(1)), such term means earned income
17 within the meaning of section 401(c)(2).

18 “(E) YEAR.—The term ‘year’ means the
19 calendar year.

20 “(4) VESTING REQUIREMENTS.—A plan meets
21 the requirements of this paragraph only if the em-
22 ployee’s rights to the employee’s account balance
23 under the NEST are nonforfeitable. Except as pro-
24 vided in paragraph (5), the rules of subsection
25 (k)(4) shall apply for purposes of this paragraph.

1 “(5) TWO-YEAR HOLDING PERIOD.—A plan
2 meets the requirements of this paragraph only if the
3 plan, and each NEST under the plan, prohibits the
4 withdrawal of contributions made for a year (and
5 any earnings allocable thereto) during the 2-year pe-
6 riod beginning on the first day of such year.

7 “(6) TIME CONTRIBUTIONS REQUIRED TO BE
8 MADE.—

9 “(A) ELECTIVE CONTRIBUTIONS.—A plan
10 meets the requirements of this paragraph only
11 if, under the terms of the plan, the employer
12 must make all elective contributions to a NEST
13 not later than the date on which such contribu-
14 tions would otherwise be required to be made
15 under title I of the Employee Retirement In-
16 come Security Act of 1974 if such contributions
17 were elective contributions under a qualified
18 cash or deferred arrangement under section
19 401(k).

20 “(B) NONELECTIVE AND MATCHING CON-
21 TRIBUTIONS.—

22 “(i) IN GENERAL.—A plan meets the
23 requirements of this paragraph only if,
24 under the terms of the plan, the employer
25 must make all nonelective and matching

1 contributions not later than the close of
2 the 45-day period following the last day of
3 the calendar quarter for which the con-
4 tributions are to be made.

5 “(ii) COMPENSATION EXCEPTION.—If
6 an employer does not make nonelective
7 contributions to a NEST for employees
8 whose compensation from the employer for
9 the year is less than the threshold amount
10 of \$5,000 (or such lower amount permitted
11 under paragraph (2)(G)), then clause (i)
12 shall apply with respect to nonelective con-
13 tributions only for employees who received
14 at least the threshold amount of compensa-
15 tion as of the end of the applicable quar-
16 ter. In the case of an employee who
17 reaches the threshold amount in a calendar
18 quarter other than the first calendar quar-
19 ter, the employer shall make nonelective
20 contributions for that calendar quarter and
21 all preceding calendar quarters not later
22 than the date prescribed for that quarter.

23 “(C) CONTRIBUTIONS AFTER YEAR-END.—

24 For purposes of this subsection, a contribution
25 on account of a year which is made within 45

1 days (or within a period prescribed by the Sec-
2 retary) after the close of the year shall be
3 deemed to have been made on the last day of
4 such year.

5 “(7) EMPLOYEE ELECTIONS.—A plan meets the
6 requirements of this paragraph only if, under the
7 terms of the plan—

8 “(A) an employee may elect to terminate
9 elective contributions (described in subpara-
10 graphs (B)(ii) and (C)(ii) of paragraph (2)) at
11 any time during the year, except that, if the
12 employer so elects, the employee may not
13 resume participation until the first day of the
14 next year (or such earlier time as provided by
15 the plan), and

16 “(B) each employee eligible to partici-
17 pate—

18 “(i) may elect, during the 60-day pe-
19 riod before the beginning of any year, to
20 make elective contributions, or to modify
21 the amount of elective contributions, for
22 such year, and

23 “(ii) may elect, within 30 days of be-
24 coming eligible to participate in the plan,
25 to make elective contributions for the year.

1 “(8) OTHER PLANS OF THE EMPLOYER.—

2 “(A) PROHIBITION ON OTHER PLANS WITH
3 ELECTIVE OR MATCHING CONTRIBUTIONS.—A
4 plan shall not meet the requirements of this
5 paragraph for a year if the employer maintain-
6 ing the plan maintains—

7 “(i) a plan providing for elective de-
8 ferrals described in section 402(g)(3), or

9 “(ii) any plan described in section
10 401(a) which provides for matching con-
11 tributions (within the meaning of section
12 401(m)(4)(A)).

13 For purposes of this subparagraph, an employer
14 shall not be treated as maintaining a plan for
15 a year if, under the plan, no contributions or
16 benefit accruals may occur for such year.

17 “(B) COORDINATION WITH OTHER
18 PLANS.—

19 “(i) OTHER PLANS DISREGARDED.—If
20 an employer maintaining a plan to which
21 this subsection applies also maintains 1 or
22 more plans described in section 401(a),
23 403(a), or 408(k) (other than a plan de-
24 scribed in subparagraph (A)), the deter-
25 mination of whether such plan satisfies the

1 requirements of this subsection shall be
2 made without regard to such other plans.

3 “(ii) NEST DISREGARDED.—Except
4 as provided in sections 404(m) and
5 415(a)(2), a plan to which this subsection
6 applies shall not be taken into account in
7 applying this title to any other plan de-
8 scribed in clause (i).

9 “(9) EMPLOYER OPTIONS.—

10 “(A) USE OF DESIGNATED FINANCIAL IN-
11 STITUTION.—A plan shall not be treated as fail-
12 ing to satisfy the requirements of this sub-
13 section or any other provision of this title mere-
14 ly because the employer makes all contributions
15 to the individual retirement accounts or annu-
16 ities of a designated trustee or issuer. The pre-
17 ceding sentence shall not apply unless each
18 NEST plan participant is notified in writing
19 (either separately or as part of the notice under
20 subsection (l)(2)(C)) that the participant’s bal-
21 ance may be transferred without cost or penalty
22 to another individual account or annuity in ac-
23 cordance with section 408(d)(3)(G).

24 “(B) SUSPENSION OF PLAN.—Except as
25 provided by the Secretary, a plan shall not be

1 treated as failing to meet the requirements of
 2 this subsection if, under the plan, the employer
 3 may suspend all elective, matching, and non-
 4 elective contributions under the plan after noti-
 5 fying eligible employees of such suspension in
 6 writing at least 30 days in advance. Such sus-
 7 pension shall apply to contributions with re-
 8 spect to compensation earned after the effective
 9 date of the suspension. Only 1 suspension
 10 under this subparagraph may take effect during
 11 any year.

12 “(10) MODEL FORM TO BE PROVIDED.—The
 13 Secretary shall issue a model form that may be used
 14 by an eligible employer to establish a plan that satis-
 15 fies all requirements of this subsection.”

16 (b) TAX TREATMENT OF NESTS.—

17 (1) DEDUCTIBILITY OF CONTRIBUTIONS.—

18 (A) Section 219(b) (relating to maximum
 19 amount of deduction) is amended by adding at
 20 the end the following new paragraph:

21 “(4) SPECIAL RULE FOR NESTS.—This section
 22 shall not apply with respect to any amount contrib-
 23 uted to a NEST established under section 408(p).”

24 (B) Section 219(g)(5)(A) (defining active
 25 participant) is amended by striking “or” at the

1 end of clause (iv) and by adding at the end the
2 following new clause:

3 “(vi) any NEST (with the meaning of
4 section 408(p)), or”.

5 (C) Section 404 (relating to deductions for
6 contributions of an employer) is amended by
7 adding at the end the following new subsection:

8 “(m) SPECIAL RULES FOR NESTs.—

9 “(1) IN GENERAL.—Employer contributions to
10 a NEST (within the meaning of section 408(p))
11 shall be treated as if they are made to a plan subject
12 to the requirements of this section. Employer deduc-
13 tions for such contributions shall be subject to the
14 following limitations:

15 “(A) Contributions made for a calendar
16 year are deductible for the taxable year of the
17 employer with or within which the calendar year
18 ends.

19 “(B) Contributions shall be treated for
20 purposes of this subsection as if they were
21 made for a calendar year if such contributions
22 are made on account of such calendar year and
23 are made not later than the time prescribed in
24 section 408(p)(6).

1 “(C) The amount deductible in a taxable
2 year for a NEST shall not exceed the amount
3 contributed pursuant to a qualified formula
4 (within the meaning of section 408(p)(2)), and
5 shall be deductible without regard to the
6 amount contributed under any other plan sub-
7 ject to this section.

8 “(2) EFFECT ON STOCK BONUS AND PROFIT-
9 SHARING TRUST.—For any taxable year for which
10 the employer has a deduction under paragraph (1),
11 the otherwise applicable limitations in subsection
12 (a)(3)(A) with respect to a stock bonus or profit-
13 sharing trust maintained by the same employer shall
14 be reduced by the amount of the allowable deduction
15 under paragraph (1).

16 “(3) COORDINATION WITH SUBSECTION
17 (a)(7).—For purposes of applying the limitation of
18 subsection (a)(7) with respect to a plan to which this
19 section applies (other than a plan to which section
20 408(p) applies), a plan to which section 408(p) ap-
21 plies shall be treated as if it were a separate stock
22 bonus or profit-sharing trust of the employer main-
23 taining the plan.

24 “(4) COORDINATION WITH SUBSECTION (h).—
25 For any taxable year for which the employer has a

1 deduction under paragraph (1), the otherwise appli-
2 cable limitations in subsection (h) with respect to a
3 simplified employee pension maintained by the same
4 employer shall be reduced by the amount of the de-
5 duction allowable under paragraph (1).”

6 (2) CONTRIBUTIONS AND DISTRIBUTIONS.—

7 (A) Section 402 (relating to taxability of
8 beneficiary of employees’ trust) is amended by
9 adding at the end the following new subsection:

10 “(k) TREATMENT OF NESTs.—The rules of para-
11 graphs (1) and (3) of subsection (h) shall apply to con-
12 tributions and distributions with respect to a NEST under
13 section 408(p).”

14 (B) Section 408(d)(3) is amended by add-
15 ing at the end the following new subparagraph:

16 “(G) NESTs.—This paragraph shall apply
17 to an amount distributed to an individual with
18 respect to a NEST only to the extent such
19 amount is paid directly to an individual retire-
20 ment account or annuity for the benefit of such
21 individual in a direct transfer and, if applicable,
22 such amount continues to be subject to the 2-
23 year holding period described in subsection
24 (p)(5).”

1 (C) Clause (i) of section 457(c)(2)(B) is
2 amended by striking “section 402(h)(1)(B)”
3 and inserting “section 402 (h)(1)(B) or (k)”.

4 (c) REPORTING REQUIREMENTS.—

5 (1) IN GENERAL.—

6 (A) SUMMARY DESCRIPTIONS AND EM-
7 PLOYEE NOTIFICATION.—Section 408(l) is
8 amended by adding at the end the following
9 new paragraph:

10 “(2) NESTs.—

11 “(A) NO EMPLOYER REPORTS.—Except as
12 provided in this paragraph, no report shall be
13 required under this section by an employer
14 maintaining a NEST under subsection (p).

15 “(B) SUMMARY DESCRIPTION.—The trust-
16 ee or issuer of any individual retirement ac-
17 count or annuity under a NEST described in
18 subsection (p) shall prepare, and provide to the
19 employer maintaining the arrangement, each
20 year a description containing the following in-
21 formation:

22 “(i) The name and address of the em-
23 ployer and the trustee or issuer.

24 “(ii) The requirements for eligibility
25 for participation.

1 “(iii) The benefits provided with re-
2 spect to the NEST.

3 “(iv) The time and method of making
4 elections with respect to the NEST.

5 “(v) The procedures for, and effects
6 of, distributions (including rollovers) from
7 the arrangement.

8 “(C) EMPLOYEE NOTIFICATION.—The em-
9 ployer shall notify each employee immediately
10 before the period for which an election de-
11 scribed in subsection (p)(7)(B) may be made of
12 the employee’s opportunity to make such elec-
13 tion. Such notice shall include a copy of the de-
14 scription described in subparagraph (B) and
15 shall indicate whether matching contributions
16 will be made with respect to the employee’s
17 elective contributions, and the level of employer
18 matching and nonelective contributions which
19 will be made, for the year for which the election
20 may be made.”

21 (B) CONFORMING AMENDMENT.—Section
22 408(l) is amended by striking “an employer”
23 and inserting—

24 “(1) IN GENERAL.—An employer”.

1 (2) TRUSTEE AND ISSUER REPORTS.—Section
2 408(i) (relating to reports of trustees or issuers) is
3 amended by adding at the end thereof the following
4 new flush sentence:

5 “In the case of an individual retirement account or annu-
6 ity maintained in connection with a NEST described in
7 subsection (p), only 1 report under this subsection shall
8 be required to be submitted each calendar year to the Sec-
9 retary (at the time provided under paragraph (2)) but, in
10 addition to the report under this subsection, there shall
11 be furnished, within 30 days after each calendar quarter,
12 to the individual on whose behalf the account is main-
13 tained a statement with respect to the account balance as
14 of the close of, and the account activity during, such cal-
15 endar quarter.”

16 (3) PENALTIES FOR FAILURE TO REPORT.—
17 Section 6693 is amended by redesignating sub-
18 section (c) as subsection (d) and by inserting after
19 subsection (b) the following new subsection:

20 “(c) PENALTIES RELATING TO NESTs.—

21 “(1) EMPLOYER PENALTIES.—An employer who
22 fails to provide 1 or more notices required by section
23 408(l)(2)(C) shall pay a penalty of \$50 for each day
24 on which such failures continue.

1 “(2) TRUSTEE PENALTIES.—A trustee who
2 fails—

3 “(A) to provide 1 or more statements re-
4 quired by the last sentence of section 408(i)
5 shall pay a penalty of \$50 for each day on
6 which such failures continue, or

7 “(B) to provide 1 or more summary de-
8 scriptions required by section 408(l)(2)(B) shall
9 pay a penalty of \$50 for each day on which
10 such failures continue.

11 “(3) REASONABLE CAUSE EXCEPTION.—No
12 penalty shall be imposed under this subsection with
13 respect to any failure which the taxpayer shows was
14 due to reasonable cause.”

15 (d) CONFORMING AMENDMENTS.—

16 (1) Section 280G(b)(6) is amended by striking
17 the “or” at the end of subparagraph (B), by striking
18 the period at the end of subparagraph (C) and in-
19 serting “, or”, and by adding after subparagraph
20 (C) the following new subparagraph:

21 “(D) a NEST described in section
22 408(p).”

23 (2) Section 402(g)(3) is amended by striking
24 “and” at the end of subparagraph (B), by striking
25 the period at the end of subparagraph (C) and in-

1 serting “, and”, and by adding after subparagraph
2 (C) the following new subparagraph:

3 “(D) any elective contribution under sec-
4 tion 408(p)(2)(B)(ii) or (C)(ii).”

5 (3) Subsections (b), (c), (m)(4)(B), and
6 (n)(3)(B) of section 414 are each amended by in-
7 serting “408(p),” after “408(k),”.

8 (4) Section 415(a)(2) is amended by adding at
9 the end the following new flush sentence:

10 “A plan described in section 408(p) shall not be subject
11 to this section, except that if an employer that maintains
12 such plan also maintains 1 or more plans, annuities, or
13 accounts subject to this section, such plan shall be taken
14 into account in determining whether any such other plans,
15 annuities, or accounts satisfy the requirements of this sec-
16 tion.”

17 (5) Section 4972(d)(1)(A) is amended by strik-
18 ing “and” at the end of clause (ii), by striking the
19 period at the end of clause (iii) and inserting “,
20 and”, and by adding after clause (iii) the following
21 new clause:

22 “(iv) any NEST (within the meaning
23 of section 408(p)).”

24 (6)(A) Paragraph (5) of section 3121(a) is
25 amended by striking “or” at the end of subpara-

graph (F), by inserting “or” at the end of subparagraph (G), and by adding at the end the following new subparagraph:

“(H) under a plan to which section 408(p) applies, other than any elective contributions under subparagraphs (B)(ii) and (C)(ii) of section 408(p)(2),”.

(B) Section 209(a)(4) of the Social Security Act is amended by inserting “, or (J) under a plan to which section 408(p) of such Code applies, other than any elective contributions under subparagraphs (B)(ii) and (C)(ii) of section 408(p)(2) of such Code” before the semicolon at the end thereof.

(C) Paragraph (5) of section 3306(b) is amended by striking “or” at the end of subparagraph (F), by inserting “or” at the end of subparagraph (G), and by adding at the end the following new subparagraph:

“(H) under a plan to which section 408(p) applies, other than any elective contributions under subparagraphs (B)(ii) and (C)(ii) of section 408(p)(2),”.

(D) Paragraph (12) of section 3401(a) is amended by adding the following new subparagraph:

1 “(D) under or to a NEST described in sec-
 2 tion 408(p); or”.

3 (e) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to years beginning after December
 5 31, 1996.

6 **SEC. 1102. TAX-EXEMPT ORGANIZATIONS ELIGIBLE UNDER**
 7 **SECTION 401(k).**

8 (a) IN GENERAL.—Subparagraph (B) of section
 9 401(k)(4) is amended to read as follows:

10 “(B) ELIGIBILITY OF STATE AND LOCAL
 11 GOVERNMENTS AND TAX-EXEMPT ORGANIZA-
 12 TIONS.—

13 “(i) TAX-EXEMPTS ELIGIBLE.—Ex-
 14 cept as provided in clause (ii), any organi-
 15 zation exempt from tax under this subtitle
 16 may include a qualified cash or deferred
 17 arrangement as part of a plan maintained
 18 by it.

19 “(ii) GOVERNMENTS INELIGIBLE.—A
 20 cash or deferred arrangement shall not be
 21 treated as a qualified cash or deferred ar-
 22 rangement if it is part of a plan main-
 23 tained by a State or local government or
 24 political subdivision thereof, or any agency
 25 or instrumentality thereof. This clause

shall not apply to a rural cooperative plan or to a plan of an employer described in clause (iii).

“(iii) TREATMENT OF INDIAN TRIBAL GOVERNMENTS.—An employer which is an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), or an agency or instrumentality of an Indian tribal government or subdivision thereof may include a qualified cash or deferred arrangement as part of a plan maintained by it.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 1996, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 1103. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is

1 amended by adding at the end the following new para-
 2 graph:

3 “(11) ALTERNATIVE METHODS OF MEETING
 4 NONDISCRIMINATION REQUIREMENTS.—

5 “(A) IN GENERAL.—A cash or deferred ar-
 6 rangement shall be treated as meeting the re-
 7 quirements of paragraph (3)(A)(ii) if such ar-
 8 rangement—

9 “(i) meets the contribution require-
 10 ments of subparagraph (B) or (C), and

11 “(ii) meets the notice requirements of
 12 subparagraph (D).

13 “(B) NONELECTIVE AND MATCHING CON-
 14 TRIBUTIONS.—

15 “(i) IN GENERAL.—The requirements
 16 of this subparagraph are met if the re-
 17 quirements of clauses (ii) and (iii) are met.

18 “(ii) NONELECTIVE CONTRIBU-
 19 TIONS.—The requirements of this clause
 20 are met if, under the arrangement, the em-
 21 ployer is required, without regard to
 22 whether the employee makes an elective
 23 contribution or employee contribution, to
 24 make a contribution to a defined contribu-
 25 tion plan on behalf of each employee who

1 is not a highly compensated employee and
2 who is eligible to participate in the ar-
3 rangement in an amount equal to at least
4 1 percent of the employee's compensation.

5 “(iii) MATCHING CONTRIBUTIONS.—
6 The requirements of this clause are met if,
7 under the arrangement, the employer
8 makes matching contributions on behalf of
9 each employee who is not a highly com-
10 pensated employee in an amount equal
11 to—

12 “(I) 100 percent of the elective
13 contributions of the employee to the
14 extent such elective contributions do
15 not exceed 3 percent of the employee's
16 compensation, and

17 “(II) 50 percent of the elective
18 contributions of the employee to the
19 extent that such elective contributions
20 exceed 3 percent but do not exceed 5
21 percent of the employee's compensa-
22 tion.

23 “(iv) RATE FOR HIGHLY COM-
24 PENSATED EMPLOYEES.—The require-
25 ments of clause (iii) are not met if, under

1 the arrangement, the rate of matching con-
2 tribution with respect to any rate of elec-
3 tive contribution of a highly compensated
4 employee is greater than that with respect
5 to an employee who is not a highly com-
6 pensated employee. For purposes of this
7 clause, to the extent provided in regula-
8 tions, the last sentences of paragraph
9 (3)(A) and subsection (m)(2)(B) shall not
10 apply.

11 “(v) ALTERNATIVE PLAN DESIGNS.—
12 If the rate of matching contribution with
13 respect to any rate of elective contribution
14 is not equal to the percentage required
15 under clause (iii), an arrangement shall
16 not be treated as failing to meet the re-
17 quirements of clause (iii) if—

18 “(I) the rate of an employer’s
19 matching contribution does not in-
20 crease as an employee’s rate of elec-
21 tive contribution increase, and

22 “(II) the aggregate amount of
23 matching contributions at such rate of
24 elective contribution is at least equal
25 to the aggregate amount of matching

1 contributions which would be made if
2 matching contributions were made on
3 the basis of the percentages described
4 in clause (iii).

5 “(C) NONELECTIVE CONTRIBUTIONS.—

6 The requirements of this subparagraph are met
7 if, under the arrangement, the employer is re-
8 quired, without regard to whether the employee
9 makes an elective contribution or employee con-
10 tribution, to make a contribution to a defined
11 contribution plan on behalf of each employee
12 who is not a highly compensated employee and
13 who is eligible to participate in the arrangement
14 in an amount equal to at least 3 percent of the
15 employee’s compensation.

16 “(D) NOTICE REQUIREMENT.—An ar-
17 rangement meets the requirements of this para-
18 graph if, under the arrangement, each employee
19 eligible to participate is, within a reasonable pe-
20 riod before any year, given written notice of the
21 employee’s rights and obligations under the ar-
22 rangement which—

23 “(i) is sufficiently accurate and com-
24 prehensive to reasonably apprise the em-
25 ployee of such rights and obligations, and

1 “(ii) is written in a manner calculated
2 to be understood by the average employee
3 eligible to participate.

4 “(E) OTHER REQUIREMENTS.—

5 “(i) WITHDRAWAL AND VESTING RE-
6 STRICTIONS.—An arrangement shall not be
7 treated as meeting the requirements of
8 subparagraph (B) or (C) of this paragraph
9 unless the requirements of subparagraphs
10 (B) and (C) of paragraph (2) are met with
11 respect to all employer contributions (in-
12 cluding matching contributions) taken into
13 account in determining whether the re-
14 quirements of subparagraphs (B) and (C)
15 of this paragraph are met.

16 “(ii) SOCIAL SECURITY AND SIMILAR
17 CONTRIBUTIONS NOT TAKEN INTO AC-
18 COUNT.—An arrangement shall not be
19 treated as meeting the requirements of
20 subparagraph (B) or (C) unless such re-
21 quirements are met without regard to sub-
22 section (l), and, for purposes of subsection
23 (l), employer contributions under subpara-
24 graph (B) or (C) shall not be taken into
25 account.

1 “(F) OTHER PLANS.—An arrangement
 2 shall be treated as meeting the requirements
 3 under subparagraph (A)(i) if any other plan
 4 maintained by the employer meets such require-
 5 ments with respect to employees eligible under
 6 the arrangement.”

7 (b) ALTERNATIVE METHODS OF SATISFYING SEC-
 8 TION 401(m) NONDISCRIMINATION TESTS.—Section
 9 401(m) (relating to nondiscrimination test for matching
 10 contributions and employee contributions) is amended by
 11 redesignating paragraph (10) as paragraph (11) and by
 12 adding after paragraph (9) the following new paragraph:

13 “(10) ALTERNATIVE METHOD OF SATISFYING
 14 TESTS.—

15 “(A) IN GENERAL.—A defined contribution
 16 plan shall be treated as meeting the require-
 17 ments of paragraph (2) with respect to match-
 18 ing contributions if the plan—

19 “(i) meets the contribution require-
 20 ments of subparagraph (B) or (C) of sub-
 21 section (k)(11),

22 “(ii) meets the notice requirements of
 23 subsection (k)(11)(D), and

24 “(iii) meets the requirements of sub-
 25 paragraphs (B) and (C).

1 “(B) LIMITATION ON MATCHING CON-
2 TRIBUTIONS.—The requirements of this sub-
3 paragraph are met if—

4 “(i) matching contributions on behalf
5 of any employee may not be made with re-
6 spect to an employee’s contributions or
7 elective deferrals in excess of 6 percent of
8 the employee’s compensation,

9 “(ii) the rate of an employer’s match-
10 ing contribution does not increase as the
11 rate of an employee’s contributions or elec-
12 tive deferrals increase, and

13 “(iii) the matching contribution with
14 respect to any highly compensated em-
15 ployee at any rate of an employee contribu-
16 tion or rate of elective deferral is not
17 greater than that with respect to an em-
18 ployee who is not a highly compensated
19 employee.

20 To the extent provided in regulations, the last
21 sentences of paragraph (2)(B) and subsection
22 (k)(3)(A) shall not apply for purposes of clause
23 (iii).

24 “(C) TEST MUST BE MET SEPARATELY.—
25 If this paragraph applies to any matching con-

1 tributions, such contributions shall not be taken
 2 into account in determining whether employee
 3 contributions satisfy the requirements of this
 4 subsection.”

5 (c) YEAR FOR COMPUTING NONHIGHLY COM-
 6 PENSATED EMPLOYEE PERCENTAGE.—

7 (1) CASH OR DEFERRED ARRANGEMENTS.—

8 Clause (ii) of section 401(k)(3)(A) is amended—

9 (A) by striking “such year” and inserting
 10 “the plan year”,

11 (B) by striking “for such plan year” and
 12 inserting “for the preceding plan year”, and

13 (C) by adding at the end the following new
 14 sentence: “An arrangement may apply this
 15 clause by using the plan year rather than the
 16 preceding plan year if the employer so elects,
 17 except that if such an election is made, it may
 18 not be changed except as provided by the Sec-
 19 retary.”

20 (2) MATCHING AND EMPLOYEE CONTRIBU-
 21 TIONS.—Section 401(m)(2)(A) is amended—

22 (A) by inserting “for such plan year” after
 23 “highly compensated employees”,

1 (B) by inserting “for the preceding plan
 2 year” after “eligible employees” each place it
 3 appears in clause (i) and clause (ii), and

4 (C) by adding at the end the following
 5 flush sentence: “This subparagraph may be ap-
 6 plied by using the plan year rather than the
 7 preceding plan year if the employer so elects,
 8 except that if such an election is made, it may
 9 not be changed except as provided the Sec-
 10 retary.”

11 (d) SPECIAL RULE FOR DETERMINING AVERAGE DE-
 12 FERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

13 (1) Paragraph (3) of section 401(k) is amended
 14 by adding at the end the following new subpara-
 15 graph:

16 “(E) For purposes of this paragraph, in
 17 the case of the first plan year of any plan, the
 18 amount taken into account as the actual defer-
 19 ral percentage of nonhighly compensated em-
 20 ployees for the preceding plan year shall be—

21 “(i) 3 percent, or

22 “(ii) the actual deferral percentage of
 23 nonhighly compensated employees deter-
 24 mined for such first plan year in the case
 25 of—

1 “(I) an employer who elects to
2 have this clause apply, or

3 “(II) except to the extent pro-
4 vided by the Secretary, a successor
5 plan.”

6 (2) Paragraph (3) of section 401(m) is amend-
7 ed by adding at the end the following: “Rules similar
8 to the rules of subsection (k)(3)(E) shall apply for
9 purposes of this subsection.”

10 (e) DISTRIBUTION OF EXCESS CONTRIBUTIONS AND
11 EXCESS AGGREGATE CONTRIBUTIONS.—

12 (1) Subparagraph (C) of section 401(k)(8) (re-
13 lating to arrangement not disqualified if excess con-
14 tributions distributed) is amended by striking “on
15 the basis of the respective portions of the excess con-
16 tributions attributable to each of such employees”
17 and inserting “on the basis of the amount of con-
18 tributions by, or on behalf of, each of such employ-
19 ees”.

20 (2) Subparagraph (C) of section 401(m)(6) (re-
21 lating to method of distributing excess aggregate
22 contributions) is amended by striking “on the basis
23 of the respective portions of such amounts attrib-
24 utable to each of such employees” and inserting “on

1 the basis of the amount of contributions on behalf
2 of, or by, each such employee”.

3 (f) EFFECTIVE DATES.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to plan years beginning after
6 December 31, 1998.

7 (2) SUBSECTIONS (c), (d), AND (e).—The
8 amendments made by subsections (c), (d), and (e)
9 shall apply to plan years beginning after December
10 31, 1996.

11 **SEC. 1104. REPEAL OF FAMILY AGGREGATION.**

12 (a) REPEAL OF FAMILY AGGREGATION RULES.—

13 (1) IN GENERAL.—Paragraph (6) of section
14 414(q) is hereby repealed.

15 (2) COMPENSATION LIMIT.—Paragraph (17)(A)
16 of section 401(a) is amended by striking the last
17 sentence.

18 (3) DEDUCTION.—Subsection (l) of section 404
19 is amended by striking the last sentence.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to years beginning after December
22 31, 1996.

1 **SEC. 1105. DEFINITION OF HIGHLY COMPENSATED EM-**
2 **PLOYEES.**

3 (a) IN GENERAL.—Paragraph (1) of section 414(q)
4 (defining highly compensated employee) is amended to
5 read as follows:

6 “(1) IN GENERAL.—The term ‘highly com-
7 pensated employee’ means any employee who—

8 “(A) was a 5-percent owner at any time
9 during the year or the preceding year, or

10 “(B) for the preceding year had compensa-
11 tion from the employer in excess of \$80,000.

12 The Secretary shall adjust the \$80,000 amount
13 under subparagraph (B) at the same time and in the
14 same manner as under section 415(d), except that
15 the base period shall be the calendar quarter ending
16 September 30, 1996.”

17 (b) CONFORMING AMENDMENTS.—

18 (1)(A) Subsection (q) of section 414 is amended
19 by striking paragraphs (2), (4), (5), (8), (10), and
20 (12) and by redesignating paragraphs (3), (7), (9),
21 and (11) as paragraphs (2) through (5), respec-
22 tively.

23 (B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii),
24 408(k)(2)(C), and 416(i)(1)(D) are each amended
25 by striking “section 414(q)(7)” and inserting “sec-
26 tion 414(q)(3)”.

1 (C) Section 416(i)(1)(A) is amended by striking
2 “section 414(q)(8)” and inserting “section
3 414(r)(9)”.

4 (2)(A) Section 414(r) is amended by adding at
5 the end the following new paragraph:

6 “(9) EXCLUDED EMPLOYEES.—For purposes of
7 paragraph (2)(A), the following employees shall be
8 excluded:

9 “(A) Employees who have not completed 6
10 months of service.

11 “(B) Employees who normally work less
12 than 17½ hours per week.

13 “(C) Employees who normally work not
14 more than 6 months during any year.

15 “(D) Employees who have not attained the
16 age of 21.

17 “(E) Except to the extent provided in reg-
18 ulations, employees who are included in a unit
19 of employees covered by an agreement which
20 the Secretary of Labor finds to be a collective
21 bargaining agreement between employee rep-
22 resentatives and the employer.”

23 (B) Subparagraph (A) of section 414(r)(2) is
24 amended by striking “subsection (q)(8)” and insert-
25 ing “paragraph (9)”.

1 (3) Section 1114(c)(4) of the Tax Reform Act
 2 of 1986 is amended by adding at the end the follow-
 3 ing new sentence: “Any reference in this paragraph
 4 to section 414(q) shall be treated as a reference to
 5 such section as in effect on the day before the date
 6 of the enactment of the Retirement Savings and Se-
 7 curity Act.”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to years beginning after December
 10 31, 1996, except that in determining whether an employee
 11 is a highly compensated employee for years beginning in
 12 1997, such amendments shall be treated as having been
 13 in effect for years beginning in 1996.

14 **SEC. 1106. REPEAL OF LIMITATION IN CASE OF DEFINED**
 15 **BENEFIT PLAN AND DEFINED CONTRIBUTION**
 16 **PLAN FOR SAME EMPLOYEE.**

17 (a) IN GENERAL.—Section 415(e) is repealed.

18 (b) CONFORMING AMENDMENTS.—

19 (1) Paragraph (1) of section 415(a) is amend-
 20 ed—

21 (A) by adding “or” at the end of subpara-
 22 graph (A),

23 (B) by striking “, or” at the end of sub-
 24 paragraph (B) and inserting a period, and

25 (C) by striking subparagraph (C).

1 (2) Subparagraph (B) of section 415(b)(5) is
2 amended by striking “and subsection (e)”.

3 (3) Paragraph (1) of section 415(f) is amended
4 by striking “subsections (b), (c), and (e)” and in-
5 serting “subsections (b) and (c)”.

6 (4) Subsection (g) of section 415 is amended by
7 striking “subsections (e) and (f)” in the last sen-
8 tence and inserting “subsection (f)”.

9 (5) Clause (i) of section 415(k)(2)(A) is amend-
10 ed to read as follows:

11 “(i) any contribution made directly by
12 an employee under such an arrangement
13 shall not be treated as an annual addition
14 for purposes of subsection (c), and”.

15 (6) Clause (ii) of section 415(k)(2)(A) is
16 amended by striking “subsections (c) and (e)” and
17 inserting “subsection (c)”.

18 (7) Section 416 is amended by striking sub-
19 section (h).

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to years beginning after December
22 31, 1998.

1 **SEC. 1107. CONTRIBUTIONS ON BEHALF OF DISABLED EM-**
2 **PLOYEES.**

3 (a) ALL DISABLED PARTICIPANTS RECEIVING CON-
4 TRIBUTIONS.—Section 415(c)(3)(C) is amended by adding
5 at the end the following: “If a defined contribution plan
6 provides for the continuation of contributions on behalf
7 of all participants described in clause (i) for a fixed or
8 determinable period, this subparagraph shall be applied
9 without regard to clauses (ii) and (iii).”

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall apply to years beginning after December
12 31, 1996.

13 **SEC. 1108. PLANS COVERING SELF-EMPLOYED INDIVID-**
14 **UALS.**

15 (a) AGGREGATION RULES.—Section 401(d) (relating
16 to additional requirements for qualification of trusts and
17 plans benefiting owner-employees) is amended to read as
18 follows:

19 “(d) CONTRIBUTION LIMIT ON OWNER-EMPLOY-
20 EES.—A trust forming part of a pension or profit-sharing
21 plan which provides contributions or benefits for employ-
22 ees some or all of whom are owner-employees shall con-
23 stitute a qualified trust under this section only if, in addi-
24 tion to meeting the requirements of subsection (a), the
25 plan provides that contributions on behalf of any owner-
26 employee may be made only with respect to the earned

1 income of such owner-employee which is derived from the
 2 trade or business with respect to which such plan is estab-
 3 lished.”

4 (b) EFFECTIVE DATE.—The amendments made by
 5 this section shall apply to plan years beginning after De-
 6 cember 31, 1996.

7 **SEC. 1109. TRUST REQUIREMENT FOR DEFERRED COM-**
 8 **PENSATION PLANS OF STATE AND LOCAL**
 9 **GOVERNMENTS.**

10 (a) IN GENERAL.—Section 457 is amended by adding
 11 at the end the following new subsection:

12 “(g) GOVERNMENTAL PLANS MUST MAINTAIN SET-
 13 ASIDES FOR EXCLUSIVE BENEFIT OF PARTICIPANTS.—

14 “(1) IN GENERAL.—A plan maintained by an
 15 eligible employer described in subsection (e)(1)(A)
 16 shall not be treated as an eligible deferred com-
 17 pensation plan unless all amounts, property and
 18 rights, and income of the plan described in subpara-
 19 graphs (A), (B), and (C) of subsection (b)(6) are
 20 held in trust for the exclusive benefit of participants
 21 and their beneficiaries.

22 “(2) TAXABILITY OF TRUSTS AND PARTICI-
 23 PANTS.—For purposes of this title—

1 “(A) a trust described in paragraph (1)
2 shall be treated as an organization exempt from
3 taxation under section 501(a), and

4 “(B) notwithstanding any other provision
5 of this title, amounts in the trust shall be in-
6 cludible in the gross income of participants and
7 beneficiaries only to the extent, and at the time,
8 provided in this section.

9 “(3) CUSTODIAL ACCOUNT AND CONTRACTS.—
10 For purposes of this subsection, custodial accounts
11 and contracts described in section 401(f) shall be
12 treated as trusts under rules similar to the rules
13 under section 401(f).”

14 (b) CONFORMING AMENDMENT.—Paragraph (6) of
15 section 457(b) is amended by inserting “except as pro-
16 vided in subsection (g),” before “which provides that”.

17 (c) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), the amendments made by this section
20 shall apply to amounts, property and rights, and in-
21 come described in subparagraphs (A), (B), and (C)
22 of section 457(b)(6) of the Internal Revenue Code of
23 1986 held by a plan on and after the date of the en-
24 actment of this Act.

1 (2) TRANSITION RULE.—In the case of
 2 amounts, property and rights, and income described
 3 in paragraph (1) under a plan before the last day
 4 of the first calendar quarter beginning after the
 5 close of the first regular session (beginning after the
 6 date of the enactment of this Act) of the State legis-
 7 lature of the State in which the governmental entity
 8 maintaining the plan is located, a trust need not be
 9 established by reason of the amendments made by
 10 this section before such last day. For purposes of
 11 the preceding sentence, in the case of a State that
 12 has a 2-year legislative session, each year of such
 13 session shall be deemed to be a separate regular ses-
 14 sion of the State legislature.

15 **SEC. 1110. TREATMENT OF CERTAIN DISABILITY BENEFITS**
 16 **RECEIVED BY FORMER POLICE OFFICERS OR**
 17 **FIREFIGHTERS.**

18 (a) GENERAL RULE.—For purposes of determining
 19 whether any amount to which this section applies is ex-
 20 cludable from gross income under section 104(a)(1) of the
 21 Internal Revenue Code of 1986, the following conditions
 22 shall be treated as personal injuries or sickness in the
 23 course of employment:

24 (1) Heart disease.

25 (2) Hypertension.

1 (b) AMOUNTS TO WHICH SECTION APPLIES.—This
2 section shall apply to any amount—

3 (1) which is payable—

4 (A) to an individual (or to the survivors of
5 an individual) who was a full-time employee of
6 any police department or fire department which
7 is organized and operated by a State, by any
8 political subdivision thereof, or by any agency
9 or instrumentality of a State or political sub-
10 division thereof, and

11 (B) under a State law (as in existence on
12 July 1, 1992) which irrebuttably presumed that
13 heart disease and hypertension are work-related
14 illnesses but only for employees separating from
15 service before such date; and

16 (2) which is received in calendar year 1989,
17 1990, or 1991.

18 For purposes of the preceding sentence, the term “State”
19 includes the District of Columbia.

20 (c) WAIVER OF STATUTE OF LIMITATIONS.—If, on
21 the date of the enactment of this Act (or at any time with-
22 in the 1-year period beginning on such date of enactment)
23 credit or refund of any overpayment of tax resulting from
24 the provisions of this section is barred by any law or rule
25 of law, credit or refund of such overpayment shall, never-

1 theless, be allowed or made if claim therefore is filed be-
 2 fore the date 1 year after such date of enactment.

3 **CHAPTER 2—SIMPLIFICATION AND COST**
 4 **SAVINGS**

5 **SEC. 1201. TREATMENT OF GOVERNMENTAL AND MULTIEMPLOYER PLANS UNDER SECTION 415 AND**
 6 **TREATMENT OF EXCESS BENEFIT PLANS.**

8 (a) COMPENSATION LIMIT.—Subsection (b) of sec-
 9 tion 415 is amended by adding immediately after para-
 10 graph (10) the following new paragraph:

11 “(11) SPECIAL LIMITATION RULE FOR GOVERN-
 12 MENTAL AND MULTIEMPLOYER PLANS.—In the case
 13 of a governmental plan (as defined in section
 14 414(d)) or a multiemployer plan (as defined in sec-
 15 tion 414(f)), subparagraph (B) of paragraph (1)
 16 shall not apply.”

17 (b) TREATMENT OF CERTAIN EXCESS BENEFIT
 18 PLANS.—

19 (1) IN GENERAL.—Section 415 is amended by
 20 adding at the end the following new subsection:

21 “(m) TREATMENT OF QUALIFIED GOVERNMENTAL
 22 EXCESS BENEFIT ARRANGEMENTS.—

23 “(1) GOVERNMENTAL PLAN NOT AFFECTED.—
 24 In determining whether a governmental plan (as de-
 25 fined in section 414(d)) meets the requirements of

1 this section, benefits provided under a qualified gov-
2 ernmental excess benefit arrangement shall not be
3 taken into account. Income accruing to a govern-
4 mental plan (or to a trust that is maintained solely
5 for the purpose of providing benefits under a quali-
6 fied governmental excess benefit arrangement) in re-
7 spect of a qualified governmental excess benefit ar-
8 rangement shall constitute income derived from the
9 exercise of an essential governmental function upon
10 which such governmental plan (or trust) shall be ex-
11 empt from tax under section 115.

12 “(2) TAXATION OF PARTICIPANT.—For pur-
13 poses of this chapter—

14 “(A) the taxable year or years for which
15 amounts in respect of a qualified governmental
16 excess benefit arrangement are includible in
17 gross income by a participant, and

18 “(B) the treatment of such amounts when
19 so includible by the participant,
20 shall be determined as if such qualified govern-
21 mental excess benefit arrangement were treated as a
22 plan for the deferral of compensation which is main-
23 tained by a corporation not exempt from tax under
24 this chapter and which does not meet the require-
25 ments for qualification under section 401.

1 “(3) QUALIFIED GOVERNMENTAL EXCESS BEN-
 2 EFIT ARRANGEMENT.—For purposes of this sub-
 3 section, the term ‘qualified governmental excess ben-
 4 efit arrangement’ means a portion of a governmental
 5 plan if—

6 “(A) such portion is maintained solely for
 7 the purpose of providing to participants in the
 8 plan that part of the participant’s annual bene-
 9 fit otherwise payable under the terms of the
 10 plan that exceeds the limitations on benefits im-
 11 posed by this section,

12 “(B) under such portion no election is pro-
 13 vided at any time to the participant (directly or
 14 indirectly) to defer compensation, and

15 “(C) benefits described in subparagraph
 16 (A) are not paid from a trust forming a part
 17 of such governmental plan unless such trust is
 18 maintained solely for the purpose of providing
 19 such benefits.”

20 (2) RULES RELATING TO EXCESS BENEFIT AR-
 21 RANGEMENT.—

22 (A) APPLICATION OF SECTION 457.—Sub-
 23 section (e) of section 457 is amended by adding
 24 at the end the following new paragraph:

1 “(14) TREATMENT OF EXCESS BENEFIT AR-
2 RANGEMENTS.—

3 “(A) IN GENERAL.—Subsections (b)(2)
4 and (c)(1) shall not apply to any excess benefit
5 arrangement and benefits provided under such
6 an arrangement shall not be taken into account
7 in determining whether any other plan is an eli-
8 gible deferred compensation plan.

9 “(B) EXCESS BENEFIT ARRANGEMENT DE-
10 FINED.—For purposes of this section, the term
11 ‘excess benefit arrangement’ means a plan
12 which is maintained by an eligible employer
13 solely for purposes of providing benefits for cer-
14 tain employees in excess of the limits on con-
15 tributions and benefits imposed by section 415.
16 Such term includes a qualified governmental ex-
17 cess benefit arrangement (as defined in section
18 415(m)(3)).”

19 (B) CONFORMING AMENDMENT.—Para-
20 graph (2) of section 457(f) is amended by strik-
21 ing “and” at the end of subparagraph (C), by
22 striking the period at the end of subparagraph
23 (D) and inserting “, and”, and by inserting im-
24 mediately thereafter the following new subpara-
25 graph:

1 “(E) an excess benefit arrangement (as de-
 2 fined in subsection (e)(14)(B)).”

3 (c) EXEMPTION FOR SURVIVOR AND DISABILITY
 4 BENEFITS.—Paragraph (2) of section 415(b) is amended
 5 by adding at the end the following new subparagraph:

6 “(I) EXEMPTION FOR SURVIVOR AND DIS-
 7 ABILITY BENEFITS PROVIDED UNDER GOVERN-
 8 MENTAL AND MULTIEMPLOYER PLANS.—Sub-
 9 paragraph (C) of this paragraph and paragraph
 10 (5) shall not apply to—

11 “(i) income received from a govern-
 12 mental plan (as defined in section 414(d))
 13 or a multiemployer plan (as defined in sec-
 14 tion 414(f)) as a pension, annuity, or simi-
 15 lar allowance as the result of the recipient
 16 becoming disabled by reason of personal
 17 injuries or sickness, or

18 “(ii) amounts received from a govern-
 19 mental or multiemployer plan by the bene-
 20 ficiaries, survivors, or the estate of an em-
 21 ployee as the result of the death of the em-
 22 ployee.”

23 (d) REVOCATION OF GRANDFATHER ELECTION.—

1 (1) IN GENERAL.—Subparagraph (C) of section
2 415(b)(10) is amended by adding at the end the fol-
3 lowing new clause:

4 “(ii) REVOCATION OF ELECTION.—An
5 election under clause (i) may be revoked
6 not later than the last day of the third
7 plan year beginning after the date of the
8 enactment of this clause. The revocation
9 shall apply to all plan years to which the
10 election applied and to all subsequent plan
11 years. Any amount paid by a plan in a tax-
12 able year ending after the revocation shall
13 be includible in income in such taxable
14 year under the rules of this chapter in ef-
15 fect for such taxable year, except that, for
16 purposes of applying the limitations im-
17 posed by this section, any portion of such
18 amount which is attributable to any tax-
19 able year during which the election was in
20 effect shall be treated as received in such
21 taxable year.”

22 (2) CONFORMING AMENDMENT.—Subparagraph
23 (C) of section 415(b)(10) is amended by striking
24 “‘This’” and inserting:

25 “(i) IN GENERAL.—‘This’”.

1 (e) EFFECTIVE DATE.—

2 (1) IN GENERAL.—The amendments made by
3 subsections (a), (b), and (c) shall apply to years be-
4 ginning after December 31, 1996.

5 (2) SPECIAL RULES FOR GOVERNMENTAL
6 PLANS.—

7 (A) IN GENERAL.—In the case of a govern-
8 mental plan, the amendments made by sub-
9 sections (a), (b), and (c) shall apply to years
10 beginning after December 31, 1995.

11 (B) REVOCATIONS.—The amendments
12 made by subsection (d) shall apply with respect
13 to revocations adopted after the date of the en-
14 actment of this Act.

15 (C) TREATMENT FOR YEARS BEGINNING
16 BEFORE JANUARY 1, 1996.—Nothing in the
17 amendments made by this section shall be con-
18 strued to imply that a governmental plan (as
19 defined in section 414(d) of the Internal Reve-
20 nue Code of 1986) fails to satisfy the require-
21 ments of section 415 of such Code for any year
22 beginning before January 1, 1996.

1 **SEC. 1202. DEFINITION OF COMPENSATION FOR SECTION**
2 **415 PURPOSES.**

3 (a) **GENERAL RULE.**—Section 415(c)(3) (defining
4 participant’s compensation) is amended by adding at the
5 end the following new subparagraph:

6 “(D) **CERTAIN DEFERRALS INCLUDED.**—
7 The term ‘participant’s compensation’ shall in-
8 clude—

9 “(i) any elective deferral (as defined
10 in section 402(g)(3)),

11 “(ii) any amount which is contributed
12 by the employer at the election of the em-
13 ployee and which is not includible in the
14 gross income of the employee pursuant to
15 section 125, and

16 “(iii) any amount which is deferred at
17 the election of the employee and which is
18 not includible in the gross income of the
19 employee pursuant to section 457.”

20 (b) **CONFORMING AMENDMENTS.**—

21 (1) Section 414(q)(3), as redesignated by sec-
22 tion 1105, is amended to read as follows:

23 “(3) **COMPENSATION.**—For purposes of this
24 subsection, the term ‘compensation’ has the meaning
25 given such term by section 415(c)(3).”

1 (2) Section 414(s)(2) is amended by inserting
2 “not” after “elect” in the text and heading thereof.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to years beginning after December
5 31, 1996.

6 **SEC. 1203. ASSUMPTIONS FOR ADJUSTING CERTAIN BENE-**
7 **FITS OF DEFINED BENEFIT PLANS FOR**
8 **EARLY RETIREES.**

9 (a) IN GENERAL.—Subparagraph (E) of section
10 415(b)(2) (relating to limitation on certain assumptions)
11 is amended—

12 (1) by striking “Except as provided in clause
13 (ii), for purposes of adjusting any benefit or limita-
14 tion under subparagraph (B) or (C),” in clause (i)
15 and inserting “For purposes of adjusting any limita-
16 tion under subparagraph (C) and, except as provided
17 in clause (ii), for purposes of adjusting any benefit
18 under subparagraph (B),”, and

19 (2) by striking “For purposes of adjusting the
20 benefit or limitation of any form of benefit subject
21 to section 417(e)(3),” in clause (ii) and inserting
22 “For purposes of adjusting any benefit under sub-
23 paragraph (B) for any form of benefit subject to sec-
24 tion 417(e)(3),”.

1 (b) EFFECTIVE DATE.—The amendments made by
 2 this section shall take effect as if included in the provisions
 3 of section 767 of the Uruguay Round Agreements Act.

4 **SEC. 1204. TREATMENT OF DEFERRED COMPENSATION**
 5 **PLANS OF STATE AND LOCAL GOVERNMENTS**
 6 **AND TAX-EXEMPT ORGANIZATIONS.**

7 (a) SPECIAL RULES FOR PLAN DISTRIBUTIONS.—
 8 Paragraph (9) of section 457(e) (relating to other defini-
 9 tions and special rules) is amended to read as follows:

10 “(9) BENEFITS NOT TREATED AS MADE AVAIL-
 11 ABLE BY REASON OF CERTAIN ELECTIONS, ETC.—

12 “(A) TOTAL AMOUNT PAYABLE IS \$3,500
 13 OR LESS.—The total amount payable to a par-
 14 ticipant under the plan shall not be treated as
 15 made available merely because the participant
 16 may elect to receive such amount (or the plan
 17 may distribute such amount without the partici-
 18 pant’s consent) if—

19 “(i) such amount does not exceed
 20 \$3,500, and

21 “(ii) such amount may be distributed
 22 only if—

23 “(I) no amount has been deferred
 24 under the plan with respect to such
 25 participant during the 2-year period

1 ending on the date of the distribution,
2 and

3 “(II) there has been no prior dis-
4 tribution under the plan to such par-
5 ticipant to which this subparagraph
6 applied.

7 A plan shall not be treated as failing to meet
8 the distribution requirements of subsection (d)
9 by reason of a distribution to which this sub-
10 paragraph applies.

11 “(B) ELECTION TO DEFER COMMENCE-
12 MENT OF DISTRIBUTIONS.—The total amount
13 payable to a participant under the plan shall
14 not be treated as made available merely because
15 the participant may elect to defer commence-
16 ment of distributions under the plan if—

17 “(i) such election is made after
18 amounts may be available under the plan
19 in accordance with subsection (d)(1)(A)
20 and before commencement of such dis-
21 tributions, and

22 “(ii) the participant may make only 1
23 such election.”

24 (b) COST-OF-LIVING ADJUSTMENT OF MAXIMUM DE-
25 FERRAL AMOUNT.—Subsection (e) of section 457, as

1 amended by section 1201(b)(2) (relating to governmental
 2 plans), is amended by adding at the end the following new
 3 paragraph:

4 “(15) COST-OF-LIVING ADJUSTMENT OF MAXI-
 5 MUM DEFERRAL AMOUNT.—The Secretary shall ad-
 6 just the \$7,500 amount specified in subsections
 7 (b)(2) and (c)(1) at the same time and in the same
 8 manner as under section 415(d), except that the
 9 base period shall be the calendar quarter ending
 10 September 30, 1994, and any increase under this
 11 paragraph which is not a multiple of \$500 shall be
 12 rounded to the next lowest multiple of \$500.”

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to taxable years beginning after
 15 December 31, 1996.

16 **SEC. 1205. NO REQUIRED DISTRIBUTIONS FOR ACTIVE EM-**
 17 **PLOYEES.**

18 (a) IN GENERAL.—Section 401(a)(9)(C) (defining re-
 19 quired beginning date) is amended to read as follows:

20 “(C) REQUIRED BEGINNING DATE.—For
 21 purposes of this paragraph—

22 “(i) IN GENERAL.—The term ‘re-
 23 quired beginning date’ means April 1 of
 24 the calendar year following the later of—

1 “(I) the calendar year in which
2 the employee attains age 70½, or

3 “(II) the calendar year in which
4 the employee retires.

5 “(ii) EXCEPTION.—Subclause (II) of
6 clause (i) shall not apply—

7 “(I) except as provided in section
8 409(d), in the case of an employee
9 who is a 5-percent owner (as defined
10 in section 416) with respect to the
11 plan year ending in the calendar year
12 in which the employee attains age
13 70½, or

14 “(II) for purposes of section 408
15 (a)(6) or (b)(3).

16 “(iii) ACTUARIAL ADJUSTMENT.—In
17 the case of an employee to whom clause
18 (i)(II) applies who retires in a calendar
19 year after the calendar year in which the
20 employee attains age 70½, the employee’s
21 accrued benefit shall be actuarially in-
22 creased to take into account the period
23 after age 70½ in which the employee was
24 not receiving any benefits under the plan.

1 “(iv) EXCEPTION FOR GOVERN-
 2 MENTAL AND CHURCH PLANS.—Clauses
 3 (ii) and (iii) shall not apply in the case of
 4 a governmental plan or church plan. For
 5 purposes of this clause, the term ‘church
 6 plan’ means a plan maintained by a church
 7 for church employees, and the term
 8 ‘church’ means any church (as defined in
 9 section 3121(w)(3)(A)) or qualified church-
 10 controlled organization (as defined in sec-
 11 tion 3121(w)(3)(B)).”

12 (b) EFFECTIVE DATE.—The amendment made by
 13 subsection (a) shall apply to years beginning after Decem-
 14 ber 31, 1996.

15 **SEC. 1206. SIMPLIFIED METHOD FOR TAXING ANNUITY DIS-**
 16 **TRIBUTIONS UNDER CERTAIN EMPLOYER**
 17 **PLANS.**

18 (a) GENERAL RULE.—Subsection (d) of section 72
 19 (relating to annuities; certain proceeds of endowment and
 20 life insurance contracts) is amended to read as follows:

21 “(d) SPECIAL RULES FOR QUALIFIED EMPLOYER
 22 RETIREMENT PLANS.—

23 “(1) SIMPLIFIED METHOD OF TAXING ANNUITY
 24 PAYMENTS.—

1 “(A) IN GENERAL.—In the case of any
2 amount received as an annuity under a quali-
3 fied employer retirement plan—

4 “(i) subsection (b) shall not apply,
5 and

6 “(ii) the investment in the contract
7 shall be recovered as provided in this para-
8 graph.

9 “(B) METHOD OF RECOVERING INVEST-
10 MENT IN CONTRACT.—

11 “(i) IN GENERAL.—Gross income
12 shall not include so much of any monthly
13 annuity payment under a qualified em-
14 ployer retirement plan as does not exceed
15 the amount obtained by dividing—

16 “(I) the investment in the con-
17 tract (as of the annuity starting date),
18 by

19 “(II) the number of anticipated
20 payments determined under the table
21 contained in clause (iii) (or, in the
22 case of a contract to which subsection
23 (c)(3)(B) applies, the number of
24 monthly annuity payments under such
25 contract).

1 “(ii) CERTAIN RULES MADE APPLICA-
 2 BLE.—Rules similar to the rules of para-
 3 graphs (2) and (3) of subsection (b) shall
 4 apply for purposes of this paragraph.

5 “(iii) NUMBER OF ANTICIPATED PAY-
 6 MENTS.—

“If the age of the primary annuitant on the annuity starting date is:	The number of anticipated payments is:
Not more than 55	360
More than 55 but not more than 60 ...	310
More than 60 but not more than 65 ...	260
More than 65 but not more than 70 ...	210
More than 70	160.

7 “(C) ADJUSTMENT FOR REFUND FEATURE
 8 NOT APPLICABLE.—For purposes of this para-
 9 graph, investment in the contract shall be de-
 10 termined under subsection (c)(1) without re-
 11 gard to subsection (c)(2).

12 “(D) SPECIAL RULE WHERE LUMP SUM
 13 PAID IN CONNECTION WITH COMMENCEMENT
 14 OF ANNUITY PAYMENTS.—If, in connection with
 15 the commencement of annuity payments under
 16 any qualified employer retirement plan, the tax-
 17 payer receives a lump sum payment—

18 “(i) such payment shall be taxable
 19 under subsection (e) as if received before
 20 the annuity starting date, and

1 “(ii) the investment in the contract
2 for purposes of this paragraph shall be de-
3 termined as if such payment had been so
4 received.

5 “(E) EXCEPTION.—This paragraph shall
6 not apply in any case where the primary annu-
7 itant has attained age 75 on the annuity start-
8 ing date unless there are fewer than 5 years of
9 guaranteed payments under the annuity.

10 “(F) ADJUSTMENT WHERE ANNUITY PAY-
11 MENTS NOT ON MONTHLY BASIS.—In any case
12 where the annuity payments are not made on a
13 monthly basis, appropriate adjustments in the
14 application of this paragraph shall be made to
15 take into account the period on the basis of
16 which such payments are made.

17 “(G) QUALIFIED EMPLOYER RETIREMENT
18 PLAN.—For purposes of this paragraph, the
19 term ‘qualified employer retirement plan’ means
20 any plan or contract described in paragraph
21 (1), (2), or (3) of section 4974(c).

22 “(2) TREATMENT OF EMPLOYEE CONTRIBU-
23 TIONS UNDER DEFINED CONTRIBUTION PLANS.—
24 For purposes of this section, employee contributions
25 (and any income allocable thereto) under a defined

1 contribution plan may be treated as a separate con-
 2 tract.”

3 (b) EFFECTIVE DATE.—The amendment made by
 4 this section shall apply in cases where the annuity starting
 5 date is after December 31, 1996.

6 **SEC. 1207. REPEAL OF 5-YEAR INCOME AVERAGING FOR**
 7 **LUMP-SUM DISTRIBUTIONS.**

8 (a) IN GENERAL.—Subsection (d) of section 402 (re-
 9 lating to taxability of beneficiary of employees’ trust) is
 10 amended to read as follows:

11 “(d) TAXABILITY OF BENEFICIARY OF CERTAIN
 12 FOREIGN SITUS TRUSTS.—For purposes of subsections
 13 (a), (b), and (c), a stock bonus, pension, or profit-sharing
 14 trust which would qualify for exemption from tax under
 15 section 501(a) except for the fact that it is a trust created
 16 or organized outside the United States shall be treated
 17 as if it were a trust exempt from tax under section
 18 501(a).”

19 (b) CONFORMING AMENDMENTS.—

20 (1) Subparagraph (D) of section 402(e)(4) (re-
 21 lating to other rules applicable to exempt trusts) is
 22 amended to read as follows:

23 “(D) LUMP-SUM DISTRIBUTION.—For pur-
 24 poses of this paragraph—

1 “(i) IN GENERAL.—The term ‘lump
2 sum distribution’ means the distribution or
3 payment within one taxable year of the re-
4 cipient of the balance to the credit of an
5 employee which becomes payable to the re-
6 cipient—

7 “(I) on account of the employee’s
8 death,

9 “(II) after the employee attains
10 age 59½,

11 “(III) on account of the employ-
12 ee’s separation from service, or

13 “(IV) after the employee has be-
14 come disabled (within the meaning of
15 section 72(m)(7)),

16 from a trust which forms a part of a plan
17 described in section 401(a) and which is
18 exempt from tax under section 501 or from
19 a plan described in section 403(a). Sub-
20 clause (III) of this clause shall be applied
21 only with respect to an individual who is
22 an employee without regard to section
23 401(c)(1), and subclause (IV) shall be ap-
24 plied only with respect to an employee
25 within the meaning of section 401(c)(1).

1 For purposes of this clause, a distribution
2 to two or more trusts shall be treated as
3 a distribution to one recipient. For pur-
4 poses of this paragraph, the balance to the
5 credit of the employee does not include the
6 accumulated deductible employee contribu-
7 tions under the plan (within the meaning
8 of section 72(o)(5)).

9 “(ii) AGGREGATION OF CERTAIN
10 TRUSTS AND PLANS.—For purposes of de-
11 termining the balance to the credit of an
12 employee under clause (i)—

13 “(I) all trusts which are part of
14 a plan shall be treated as a single
15 trust, all pension plans maintained by
16 the employer shall be treated as a sin-
17 gle plan, all profit-sharing plans main-
18 tained by the employer shall be treat-
19 ed as a single plan, and all stock
20 bonus plans maintained by the em-
21 ployer shall be treated as a single
22 plan, and

23 “(II) trusts which are not quali-
24 fied trusts under section 401(a) and
25 annuity contracts which do not satisfy

1 the requirements of section 404(a)(2)
2 shall not be taken into account.

3 “(iii) COMMUNITY PROPERTY LAWS.—
4 The provisions of this paragraph shall be
5 applied without regard to community prop-
6 erty laws.

7 “(iv) AMOUNTS SUBJECT TO PEN-
8 ALTY.—This paragraph shall not apply to
9 amounts described in subparagraph (A) of
10 section 72(m)(5) to the extent that section
11 72(m)(5) applies to such amounts.

12 “(v) BALANCE TO CREDIT OF EM-
13 PLOYEE NOT TO INCLUDE AMOUNTS PAY-
14 ABLE UNDER QUALIFIED DOMESTIC RELA-
15 TIONS ORDER.—For purposes of this para-
16 graph, the balance to the credit of an em-
17 ployee shall not include any amount pay-
18 able to an alternate payee under a quali-
19 fied domestic relations order (within the
20 meaning of section 414(p)).

21 “(vi) TRANSFERS TO COST-OF-LIVING
22 ARRANGEMENT NOT TREATED AS DIS-
23 TRIBUTION.—For purposes of this para-
24 graph, the balance to the credit of an em-
25 ployee under a defined contribution plan

1 shall not include any amount transferred
2 from such defined contribution plan to a
3 qualified cost-of-living arrangement (within
4 the meaning of section 415(k)(2)) under a
5 defined benefit plan.

6 “(vii) LUMP-SUM DISTRIBUTIONS OF
7 ALTERNATE PAYEES.—If any distribution
8 or payment of the balance to the credit of
9 an employee would be treated as a lump-
10 sum distribution, then, for purposes of this
11 paragraph, the payment under a qualified
12 domestic relations order (within the mean-
13 ing of section 414(p)) of the balance to the
14 credit of an alternate payee who is the
15 spouse or former spouse of the employee
16 shall be treated as a lump-sum distribu-
17 tion. For purposes of this clause, the bal-
18 ance to the credit of the alternate payee
19 shall not include any amount payable to
20 the employee.”

21 (2) Section 402(c) (relating to rules applicable
22 to rollovers from exempt trusts) is amended by strik-
23 ing paragraph (10).

1 (3) Paragraph (1) of section 55(c) (defining
2 regular tax) is amended by striking “shall not in-
3 clude any tax imposed by section 402(d) and”.

4 (4) Paragraph (8) of section 62(a) (relating to
5 certain portion of lump-sum distributions from pen-
6 sion plans taxed under section 402(d)) is hereby re-
7 pealed.

8 (5) Section 401(a)(28)(B) (relating to coordina-
9 tion with distribution rules) is amended by striking
10 clause (v).

11 (6) Subparagraph (B)(ii) of section 401(k)(10)
12 (relating to distributions that must be lump-sum dis-
13 tributions) is amended to read as follows:

14 “(ii) LUMP-SUM DISTRIBUTION.—For
15 purposes of this subparagraph, the term
16 ‘lump-sum distribution’ has the meaning
17 given such term by section 402(e)(4)(D),
18 without regard to subclauses (I), (II),
19 (III), and (IV) of clause (i) thereof.”

20 (7) Section 406(c) (relating to termination of
21 status as deemed employee not to be treated as sep-
22 aration from service for purposes of limitation of
23 tax) is hereby repealed.

24 (8) Section 407(c) (relating to termination of
25 status as deemed employee not to be treated as sep-

1 aration from service for purposes of limitation of
2 tax) is hereby repealed.

3 (9) Section 691(c) (relating to deduction for es-
4 tate tax) is amended by striking paragraph (5).

5 (10) Paragraph (1) of section 871(b) (relating
6 to imposition of tax) is amended by striking “section
7 1, 55, or 402(d)(1)” and inserting “section 1 or
8 55”.

9 (11) Subsection (b) of section 877 (relating to
10 alternative tax) is amended by striking “section 1,
11 55, or 402(d)(1)” and inserting “section 1 or 55”.

12 (12) Section 4980A(c)(4) is amended—

13 (A) by striking “to which an election under
14 section 402(d)(4)(B) applies” and inserting
15 “(as defined in section 402(e)(4)(D)) with re-
16 spect to which the individual elects to have this
17 paragraph apply”,

18 (B) by adding at the end the following new
19 flush sentence:

20 “An individual may elect to have this paragraph
21 apply to only one lump-sum distribution.”, and

22 (C) by striking the heading and inserting:
23 “(4) SPECIAL ONE-TIME ELECTION.—”.

24 (13) Section 402(e) is amended by striking
25 paragraph (5).

1 (c) EFFECTIVE DATES.—

2 (1) IN GENERAL.—The amendments made by
3 this section shall apply to taxable years beginning
4 after December 31, 1998.

5 (2) RETENTION OF CERTAIN TRANSITION
6 RULES.—Notwithstanding any other provision of
7 this section, the amendments made by this section
8 shall not apply to any distribution for which the tax-
9 payer elects the benefits of section 1122 (h)(3) or
10 (h)(5) of the Tax Reform Act of 1986. For purposes
11 of the preceding sentence, the rules of sections
12 402(c)(10) and 402(d) of the Internal Revenue Code
13 of 1986 (as in effect before the amendments made
14 by this Act) shall apply.

15 **SEC. 1208. ELIMINATION OF HALF-YEAR REQUIREMENTS.**

16 (a) IN GENERAL.—Each of the following provisions
17 are amended by striking “age 59½” and inserting “age
18 59”:

19 (1) Section 72(q)(2)(A).

20 (2) Section 72(q)(3)(B)(i).

21 (3) Section 72(q)(3)(B)(ii).

22 (4) Section 72(t)(2)(A)(i).

23 (5) Section 72(t)(4)(A)(ii)(I).

24 (6) Section 72(t)(4)(A)(ii)(II).

25 (7) Section 72(v)(2)(A).

1 (8) Section 401(k)(2)(B)(i)(III).

2 (9) Section 403(b)(7)(A)(ii).

3 (10) Section 403(b)(11)(A).

4 (11) The heading for section 403(b)(11).

5 (12) Section 4978(d)(1)(B).

6 (b) OTHER PROVISIONS.—Each of the following pro-
7 visions are amended by striking “age 70½” each place
8 it appears and inserting “age 70”:

9 (1) Section 219(d)(1).

10 (2) The heading for section 219(d)(1).

11 (3) Section 401(a)(9)(B)(iv)(I).

12 (4) Section 401(a)(9)(C).

13 (5) Section 408(b).

14 (6) Section 457(d)(1)(A).

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to years beginning after December
17 31, 1996.

18 **SEC. 1209. DISTRIBUTIONS UNDER RURAL COOPERATIVE**
19 **PLANS.**

20 (a) DISTRIBUTIONS FOR HARDSHIP OR AFTER A
21 CERTAIN AGE.—Section 401(k)(7) is amended by adding
22 at the end the following new subparagraph:

23 “(C) SPECIAL RULE FOR CERTAIN DIS-
24 TRIBUTIONS.—A rural cooperative plan which
25 includes a qualified cash or deferred arrange-

1 ment shall not be treated as violating the re-
 2 quirements of section 401(a) or of paragraph
 3 (2) merely because, under the plan, distribu-
 4 tions may be made by reason of hardship or the
 5 attainment of age 59½. For purposes of this
 6 section, the term ‘hardship distribution’ means
 7 a distribution described in paragraph
 8 (2)(B)(i)(IV) (without regard to the limitation
 9 of its application to profit-sharing or stock
 10 bonus plans).”

11 (b) EFFECTIVE DATE.—The amendment made by
 12 subsection (a) shall apply to distributions after the date
 13 of the enactment of this Act.

14 **SEC. 1210. MODIFICATION OF ADDITIONAL PARTICIPATION**
 15 **REQUIREMENTS.**

16 (a) GENERAL RULE.—Section 401(a)(26)(A) (relat-
 17 ing to additional participation requirements) is amended
 18 to read as follows:

19 “(A) IN GENERAL.—In the case of a trust
 20 which is a part of a defined benefit plan, such
 21 trust shall not constitute a qualified trust under
 22 this subsection unless, on each day of the plan
 23 year, such plan benefits at least the lesser of—

24 “(i) 50 employees of the employer, or

25 “(ii) the greater of—

1 “(I) 40 percent of all employees
2 of the employer, or

3 “(II) 2 employees (or if there is
4 only 1 employee, such employee).”

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to plan years beginning after De-
7 cember 31, 1996.

8 **SEC. 1211. UNIFORM RETIREMENT AGE.**

9 (a) DISCRIMINATION TESTING.—Paragraph (5) of
10 section 401(a) (relating to special rules relating to non-
11 discrimination requirements) is amended by adding at the
12 end the following new subparagraph:

13 “(F) SOCIAL SECURITY RETIREMENT
14 AGE.—For purposes of testing for discrimina-
15 tion under paragraph (4)—

16 “(i) the social security retirement age
17 (as defined in section 415(b)(8)) shall be
18 treated as a uniform retirement age, and

19 “(ii) subsidized early retirement bene-
20 fits and joint and survivor annuities shall
21 not be treated as being unavailable to em-
22 ployees on the same terms merely because
23 such benefits or annuities are based in
24 whole or in part on an employee’s social
25 security retirement age (as so defined).”

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to plan years beginning after De-
 3 cember 31, 1996.

4 **SEC. 1212. TREATMENT OF LEASED EMPLOYEES.**

5 (a) GENERAL RULE.—Subparagraph (C) of section
 6 414(n)(2) (defining leased employee) is amended to read
 7 as follows:

8 “(C) such services are performed under
 9 significant direction or control by the recipi-
 10 ent.”

11 (b) EFFECTIVE DATE.—The amendment made by
 12 subsection (a) shall apply to years beginning after Decem-
 13 ber 31, 1996, but shall not apply to any relationship deter-
 14 mined under an Internal Revenue Service ruling issued be-
 15 fore the date of the enactment of this Act pursuant to
 16 section 414(n)(2)(C) of the Internal Revenue Code of
 17 1986 (as in effect on the day before such date) not to
 18 involve a leased employee.

19 **SEC. 1213. FULL FUNDING LIMITATION FOR MULTIEM-**
 20 **PLOYER PLANS.**

21 (a) FULL-FUNDING LIMITATION.—Section
 22 412(c)(7)(C) (relating to full-funding limitation) is
 23 amended—

24 (1) by inserting “or in the case of a multiem-
 25 ployer plan,” after “paragraph (6)(B),” and

1 (2) by inserting “AND MULTIEMPLOYER PLANS”
 2 after “PARAGRAPH (6)(B)” in the heading thereof.

3 (b) VALUATION.—Section 412(c)(9) is amended—

4 (1) by inserting “(3 years in the case of a mul-
 5 tiemployer plan)” after “year”, and

6 (2) by striking “ANNUAL VALUATION” in the
 7 heading and inserting “VALUATION”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to plan years beginning after De-
 10 cember 31, 1996.

11 **SEC. 1214. ELIMINATION OF PARTIAL TERMINATION RULES**
 12 **FOR MULTIEMPLOYER PLANS.**

13 (a) PARTIAL TERMINATION RULES FOR MULTITEM-
 14 PLOYER PLANS.—Section 411(d)(3) is amended by adding
 15 at the end the following new sentence: “This paragraph
 16 shall not apply in the case of a partial termination of a
 17 multiemployer plan.”

18 (b) EFFECTIVE DATE.—The amendment made by
 19 this section shall apply to partial terminations beginning
 20 after December 31, 1996.

21 **SEC. 1215. ELECTIVE DEFERRALS UNDER SECTION 403(b).**

22 (a) IN GENERAL.—Subparagraph (E) of section
 23 403(b)(1) is amended to read as follows:

24 “(E) in the case of a contract purchased
 25 under a salary reduction agreement, the con-

1 tract meets the requirements of section
2 401(a)(30),”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section shall apply to years beginning after December
5 31, 1996.

6 **SEC. 1216. UNIFORM PENALTY PROVISIONS TO APPLY TO**
7 **CERTAIN PENSION REPORTING REQUIRE-**
8 **MENTS.**

9 (a) PENALTIES.—

10 (1) STATEMENTS.—Paragraph (1) of section
11 6724(d) is amended by striking “and” at the end of
12 subparagraph (A), by striking the period at the end
13 of subparagraph (B) and inserting “, and”, and by
14 inserting after subparagraph (B) the following new
15 subparagraph:

16 “(C) any statement required to be made to
17 the Secretary under—

18 “(i) section 408(i) (relating to reports
19 with respect to individual retirement ac-
20 counts or annuities), or

21 “(ii) section 6047(d) (relating to re-
22 ports by employers, plan administrators,
23 etc.).”

24 (2) REPORTS.—Paragraph (2) of section
25 6724(d) is amended by striking “or” at the end of

1 subparagraph (S), by striking the period at the end
2 of subparagraph (T) and inserting a comma, and by
3 inserting after subparagraph (T) the following new
4 subparagraphs:

5 “(U) section 408(i) (relating to reports
6 with respect to individual retirement plans) to
7 any person other than the Secretary, or

8 “(V) section 6047(d) (relating to reports
9 by plan administrators) to any person other
10 than the Secretary.”

11 (3) PENALTIES.—

12 (A) Section 6721(e)(2)(A) is amended by
13 striking “or 6050L” and inserting “6050L, or
14 408(i)”.

15 (B) Section 6722(c)(1)(A) is amended by
16 striking “or 6050L(c)” and inserting
17 “6050L(c), or 408(i)”.

18 (b) MODIFICATION OF REPORTABLE DESIGNATED
19 DISTRIBUTIONS.—

20 (1) SECTION 408.—Subsection (i) of section 408
21 (relating to individual retirement account reports) is
22 amended by inserting “aggregating \$10 or more in
23 any calendar year” after “distributions”.

24 (2) SECTION 6047.—Paragraph (1) of section
25 6047(d) (relating to reports by employers, plan ad-

1 ministrators, etc.) is amended by adding at the end
 2 the following new sentence: “No return or report
 3 may be required under the preceding sentence with
 4 respect to distributions to any person during any
 5 year unless such distributions aggregate \$10 or
 6 more.”

7 (c) CONFORMING AMENDMENTS.—

8 (1) Paragraph (1) of section 6047(f) is amend-
 9 ed to read as follows:

**“(1) For provisions relating to penalties for fail-
 ures to file returns and reports required under this
 section, see sections 6652(e), 6721, and 6722.”**

10 (2) Subsection (e) of section 6652 is amended
 11 by adding at the end the following new sentence:
 12 “‘This subsection shall not apply to any return or
 13 statement which is an information return described
 14 in section 6724(d)(1)(C)(ii) or a payee statement de-
 15 scribed in section 6724(d)(2)(V).”

16 (3) Subsection (a) of section 6693 is amended
 17 by adding at the end the following new sentence:
 18 “‘This subsection shall not apply to any report which
 19 is an information return described in section
 20 6724(d)(1)(C)(i) or a payee statement described in
 21 section 6724(d)(2)(U).”

22 (d) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to returns, reports, and other

1 statements the due date for which (determined without re-
2 gard to extensions) is after December 31, 1996.

3 **SEC. 1217. TAX ON PROHIBITED TRANSACTIONS.**

4 (a) IN GENERAL.—Section 4975(a) is amended by
5 striking “5 percent” and inserting “10 percent”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to prohibited transactions occur-
8 ring after the date of the enactment of this Act.

9 **SEC. 1218. DATE FOR ADOPTION OF PLAN AMENDMENTS.**

10 (a) IN GENERAL.—If any amendment made by this
11 subtitle requires an amendment to any plan, such plan
12 amendment shall not be required to be made before the
13 last day of the first plan year beginning on or after Janu-
14 ary 1, 1998, if—

15 (1) during the period after such amendment
16 takes effect and before the last day of such first
17 plan year, the plan is operated in accordance with
18 the requirements of such amendment, and

19 (2) such plan amendment applies retroactively
20 to such period.

21 (b) GOVERNMENTAL PLANS.—In the case of a gov-
22 ernmental plan (as defined in section 414(d) of the Inter-
23 nal Revenue Code of 1986), subsection (a) shall be applied
24 by substituting for “January 1, 1998” the later of—

25 (1) January 1, 1999, or

1 (2) the date which is 90 days after the opening
 2 of the first legislative session beginning after Janu-
 3 ary 1, 1999, of the governing body with authority to
 4 amend the plan, but only if such governing body
 5 does not meet continuously.

6 **Subtitle B—Expanded Individual**
 7 **Retirement Accounts to In-**
 8 **crease Coverage and Portability**
 9 **CHAPTER 1—RETIREMENT SAVINGS**

10 **INCENTIVES**

11 **Subchapter A—IRA Deduction**

12 **SEC. 1301. INCREASE IN INCOME LIMITATIONS.**

13 (a) IN GENERAL.—Subparagraph (B) of section
 14 219(g)(3) is amended—

15 (1) by striking “\$40,000” in clause (i) and in-
 16 serting “\$80,000 (\$70,000 in the case of taxable
 17 years beginning in 1996, 1997, or 1998)”, and

18 (2) by striking “\$25,000” in clause (ii) and in-
 19 serting “\$50,000 (\$45,000 in the case of taxable
 20 years beginning in 1996, 1997, or 1998)”.

21 (b) PHASEOUT OF LIMITATIONS.—Clause (ii) of sec-
 22 tion 219(g)(2)(A) is amended by striking “\$10,000” and
 23 inserting “an amount equal to 10 times the dollar amount
 24 applicable for the taxable year under subsection
 25 (b)(1)(A)”.

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 1995.

4 **SEC. 1302. INFLATION ADJUSTMENT FOR DEDUCTIBLE**
 5 **AMOUNT AND INCOME LIMITATIONS.**

6 (a) IN GENERAL.—Section 219 is amended by redes-
 7 ignating subsection (h) as subsection (i) and by inserting
 8 after subsection (g) the following new subsection:

9 “(h) COST-OF-LIVING ADJUSTMENTS.—

10 “(1) DEDUCTIBLE AMOUNTS.—In the case of
 11 any taxable year beginning in a calendar year after
 12 1996, the \$2,000 amounts under subsections
 13 (b)(1)(A) and (c)(2) shall be increased by an amount
 14 equal to—

15 “(A) such dollar amount, multiplied by

16 “(B) the cost-of-living adjustment deter-
 17 mined under section 1(f)(3) for the calendar
 18 year in which the taxable year begins, deter-
 19 mined by substituting ‘calendar year 1995’ for
 20 ‘calendar year 1992’ in subparagraph (B)
 21 thereof.

22 “(2) APPLICABLE DOLLAR AMOUNT.—In the
 23 case of any taxable year beginning in a calendar
 24 year after 1999, the applicable dollar amounts under

1 subsection (g)(3)(B) shall be increased by an
2 amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-
5 mined under section 1(f)(3) for the calendar
6 year in which the taxable year begins, deter-
7 mined by substituting ‘calendar year 1998’ for
8 ‘calendar year 1992’ in subparagraph (B)
9 thereof.

10 “(3) ROUNDING RULES.—

11 “(A) DEDUCTION AMOUNTS.—If any
12 amount after adjustment under paragraph (1)
13 is not a multiple of \$500, such amount shall be
14 rounded to the next lowest multiple of \$500.

15 “(B) APPLICABLE DOLLAR AMOUNTS.—If
16 any amount after adjustment under paragraph
17 (2) is not a multiple of \$5,000, such amount
18 shall be rounded to the next lowest multiple of
19 \$5,000.”

20 (b) CONFORMING AMENDMENTS.—

21 (1) Clause (i) of section 219(c)(2)(A) is amend-
22 ed to read as follows:

23 “(i) the sum of \$250 and the dollar
24 amount in effect for the taxable year under
25 subsection (b)(1)(A), or”.

1 (2) Section 408(a)(1) is amended by striking
 2 “in excess of \$2,000 on behalf of any individual”
 3 and inserting “on behalf of any individual in excess
 4 of the amount in effect for such taxable year under
 5 section 219(b)(1)(A)”.

6 (3) Section 408(b)(2)(B) is amended by strik-
 7 ing “\$2,000” and inserting “the dollar amount in
 8 effect under section 219(b)(1)(A)”.

9 (4) Subparagraph (A) of section 408(d)(5) is
 10 amended by striking “\$2,250” and inserting “the
 11 dollar amount in effect for the taxable year under
 12 section 219(c)(2)(A)(i)”.

13 (5) Section 408(j) is amended by striking
 14 “\$2,000”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to taxable years beginning after
 17 December 31, 1995.

18 **SEC. 1303. COORDINATION OF IRA DEDUCTION LIMIT WITH**
 19 **ELECTIVE DEFERRAL LIMIT.**

20 (a) IN GENERAL.—Section 219(b) (relating to maxi-
 21 mum amount of deduction) is amended by adding at the
 22 end the following new paragraph:

23 “(4) COORDINATION WITH ELECTIVE DEFER-
 24 RAL LIMIT.—The amount determined under para-
 25 graph (1) or subsection (c)(2) with respect to any

1 individual for any taxable year shall not exceed the
 2 excess (if any) of—

3 “(A) the limitation applicable for the tax-
 4 able year under section 402(g)(1), over

5 “(B) the elective deferrals (as defined in
 6 section 402(g)(3)) of such individual for such
 7 taxable year.”

8 (b) CONFORMING AMENDMENT.—Section 219(c) is
 9 amended by adding at the end the following new para-
 10 graph:

11 “(3) CROSS REFERENCE.—

“For reduction in paragraph (2) amount, see sub-
 section (b)(4).”

12 (c) EFFECTIVE DATE.—The amendments made by
 13 this section shall apply to taxable years beginning after
 14 December 31, 1995.

15 **Subchapter B—Nondeductible Tax-Free IRAs**

16 **SEC. 1311. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE**

17 **INDIVIDUAL RETIREMENT ACCOUNTS.**

18 (a) IN GENERAL.—Subpart A of part I of subchapter
 19 D of chapter 1 (relating to pension, profit-sharing, stock
 20 bonus plans, etc.) is amended by inserting after section
 21 408 the following new section:

22 **“SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.**

23 “(a) GENERAL RULE.—Except as provided in this
 24 chapter, a special individual retirement account shall be

1 treated for purposes of this title in the same manner as
2 an individual retirement plan.

3 “(b) SPECIAL INDIVIDUAL RETIREMENT AC-
4 COUNT.—For purposes of this title, the term ‘special indi-
5 vidual retirement account’ means an individual retirement
6 plan which is designated at the time of establishment of
7 the plan as a special individual retirement account.

8 “(c) TREATMENT OF CONTRIBUTIONS.—

9 “(1) NO DEDUCTION ALLOWED.—No deduction
10 shall be allowed under section 219 for a contribution
11 to a special individual retirement account.

12 “(2) CONTRIBUTION LIMIT.—The aggregate
13 amount of contributions for any taxable year to all
14 special individual retirement accounts maintained for
15 the benefit of an individual shall not exceed the ex-
16 cess (if any) of—

17 “(A) the maximum amount allowable as a
18 deduction under section 219 with respect to
19 such individual for such taxable year, over

20 “(B) the aggregate amount of contribu-
21 tions for such taxable year to all individual re-
22 tirement plans (other than special individual re-
23 tirement accounts) maintained for the benefit of
24 the individual.

1 “(3) SPECIAL RULES FOR QUALIFIED TRANS-
2 FERS.—

3 “(A) IN GENERAL.—No rollover contribu-
4 tion may be made to a special individual retire-
5 ment account unless it is a qualified transfer.

6 “(B) LIMIT NOT TO APPLY.—The limita-
7 tion under paragraph (2) shall not apply to a
8 qualified transfer to a special individual retire-
9 ment account.

10 “(d) TAX TREATMENT OF DISTRIBUTIONS.—

11 “(1) IN GENERAL.—Except as provided in this
12 subsection, any amount paid or distributed out of a
13 special individual retirement account shall not be in-
14 cluded in the gross income of the distributee.

15 “(2) EXCEPTION FOR EARNINGS ON CONTRIBU-
16 TIONS HELD LESS THAN 5 YEARS.—

17 “(A) IN GENERAL.—Any amount distrib-
18 uted out of a special individual retirement ac-
19 count which consists of earnings allocable to
20 contributions made to the account during the 5-
21 year period ending on the day before such dis-
22 tribution shall be included in the gross income
23 of the distributee for the taxable year in which
24 the distribution occurs.

25 “(B) ORDERING RULE.—

1 “(i) FIRST-IN, FIRST-OUT RULE.—
2 Distributions from a special individual re-
3 tirement account shall be treated as having
4 been made—

5 “(I) first from the earliest con-
6 tribution (and earnings allocable
7 thereto) remaining in the account at
8 the time of the distribution, and

9 “(II) then from other contribu-
10 tions (and earnings allocable thereto)
11 in the order in which made.

12 “(ii) ALLOCATIONS BETWEEN CON-
13 TRIBUTIONS AND EARNINGS.—Any portion
14 of a distribution allocated to a contribution
15 (and earnings allocable thereto) shall be
16 treated as allocated first to the earnings
17 and then to the contribution.

18 “(iii) ALLOCATION OF EARNINGS.—
19 Earnings shall be allocated to a contribu-
20 tion in such manner as the Secretary may
21 prescribe.

22 “(iv) AGGREGATIONS OF CONTRIBU-
23 TIONS.—Except as provided by the Sec-
24 retary, for purposes of this subpara-
25 graph—

1 “(I) all contributions made dur-
 2 ing the same taxable year may be
 3 treated as 1 contribution, and

4 “(II) all contributions made be-
 5 fore the first day of the 5-year period
 6 ending on the day before any distribu-
 7 tion may be treated as 1 contribution.

8 “(C) CROSS REFERENCE.—

“**For additional tax for early withdrawal, see section 72(t).**

9 “(3) QUALIFIED TRANSFER.—

10 “(A) IN GENERAL.—Paragraph (2) shall
 11 not apply to any distribution which is trans-
 12 ferred in a qualified transfer to another special
 13 individual retirement account.

14 “(B) CONTRIBUTION PERIOD.—For pur-
 15 poses of paragraph (2), the special individual
 16 retirement account to which any contributions
 17 are transferred shall be treated as having held
 18 such contributions during any period such con-
 19 tributions were held (or are treated as held
 20 under this subparagraph) by the special individ-
 21 ual retirement account from which transferred.

22 “(4) SPECIAL RULES RELATING TO CERTAIN
 23 TRANSFERS.—

1 “(A) IN GENERAL.—Notwithstanding any
2 other provision of law, in the case of a qualified
3 transfer to a special individual retirement ac-
4 count from an individual retirement plan which
5 is not a special individual retirement account—

6 “(i) there shall be included in gross
7 income any amount which, but for the
8 qualified transfer, would be includible in
9 gross income, but

10 “(ii) section 72(t) shall not apply to
11 such amount.

12 “(B) TIME FOR INCLUSION.—In the case
13 of any qualified transfer which occurs before
14 January 1, 1998, any amount includible in
15 gross income under subparagraph (A) with re-
16 spect to such contribution shall be includible
17 ratably over the 4-taxable year period beginning
18 in the taxable year in which the amount was
19 paid or distributed out of the individual retire-
20 ment plan. The amount of such qualified trans-
21 fer taken into account for purposes of section
22 4980A(c) shall be taken into account ratably
23 over such period.

24 “(C) ADDITIONAL REPORTING.—A trustee
25 of an individual retirement plan shall include

1 such additional information in any report re-
 2 quired under section 408(i) as the Secretary
 3 may require to insure that amounts described
 4 in subparagraph (B) are included in gross in-
 5 come for the appropriate taxable year.

6 “(e) QUALIFIED TRANSFER.—For purposes of this
 7 section—

8 “(1) IN GENERAL.—The term ‘qualified trans-
 9 fer’ means a transfer to a special individual retire-
 10 ment account from another such account or from an
 11 individual retirement plan but only if such transfer
 12 meets the requirements of section 408(d)(3).

13 “(2) LIMITATION.—

14 “(A) IN GENERAL.—A transfer otherwise
 15 described in paragraph (1) shall not be treated
 16 as a qualified transfer if the taxpayer’s adjusted
 17 gross income for the taxable year of the trans-
 18 fer exceeds the sum of—

19 “(i) the applicable dollar amount, plus

20 “(ii) the dollar amount applicable for

21 the taxable year under section

22 219(g)(2)(A)(ii).

23 This subparagraph shall not apply to a transfer
 24 from a special individual retirement account to
 25 another special individual retirement account.

1 “(B) TRANSITION RULE.—In the case of a
2 transfer before January 1, 1999, the dollar lim-
3 itation under subparagraph (A) shall be
4 \$100,000 in the case of a married individual fil-
5 ing a joint return, zero in the case of a married
6 individual filing a separate return, and \$70,000
7 in any other case.

8 “(3) DEFINITIONS.—For purposes of this sub-
9 section, the terms ‘adjusted gross income’ and ‘ap-
10 plicable dollar amount’ have the meanings given
11 such terms by section 219(g)(3), except that ad-
12 justed gross income shall be determined by taking
13 into account the deduction under section 219 and
14 not taking into account any transfer to which para-
15 graph (2) applies.”

16 (b) ADDITIONAL TAX ON EARLY DISTRIBUTIONS.—
17 Section 72(t) is amended by adding at the end the follow-
18 ing new paragraph:

19 “(6) RULES RELATING TO SPECIAL INDIVIDUAL
20 RETIREMENT ACCOUNTS.—In the case of a special
21 individual retirement account under section 408A—

22 “(A) this subsection shall only apply to
23 distributions out of such account which consist
24 of earnings allocable to contributions made to

1 the account during the 5-year period ending on
 2 the day before such distribution, and

3 “(B) paragraph (2)(A)(i) shall not apply to
 4 any distribution described in subparagraph
 5 (A).”

6 (c) EXCESS CONTRIBUTIONS.—Section 4973(b) is
 7 amended—

8 (1) by inserting “, or a qualified transfer de-
 9 scribed in section 408A(e)” after “408(d)(3)” in
 10 paragraph (1)(A), and

11 (2) by adding at the end the following new sen-
 12 tence: “For purposes of paragraphs (1)(B) and
 13 (2)(C), the amount allowable as a deduction under
 14 section 219 shall be computed without regard to sec-
 15 tion 408A.”

16 (d) REPORTING.—Section 408(i) is amended by strik-
 17 ing “under regulations” and “in such regulations” each
 18 place such terms appear.

19 (e) CONFORMING AMENDMENT.—The table of sec-
 20 tions for subpart A of part I of subchapter D of chapter
 21 1 is amended by inserting after the item relating to section
 22 408 the following new item:

“Sec. 408A. Special individual retirement accounts.”

23 (f) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable years beginning after
 25 December 31, 1995.

CHAPTER 2—DISTRIBUTIONS AND INVESTMENTS

SEC. 1321. DISTRIBUTIONS FROM IRAS MAY BE USED WITHOUT ADDITIONAL TAX TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION OR FINANCIALLY DEVASTATING MEDICAL EXPENSES, OR BY THE UNEMPLOYED.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

“(D) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOME PURCHASES OR EDUCATIONAL EXPENSES.—Distributions to an individual from an individual retirement plan—

“(i) which are qualified first-time homebuyer distributions (as defined in paragraph (7)); or

“(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (8)) of the taxpayer for the taxable year.”

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

1 (1) IN GENERAL.—Section 72(t)(3)(A) is
2 amended by striking “(B),”.

3 (2) CERTAIN LINEAL DESCENDANTS AND AN-
4 CESTORS TREATED AS DEPENDENTS AND LONG-
5 TERM CARE SERVICES TREATED AS MEDICAL
6 CARE.—Subparagraph (B) of section 72(t)(2) is
7 amended by striking “medical care” and all that fol-
8 lows and inserting “medical care determined—

9 “(i) without regard to whether the
10 employee itemizes deductions for such tax-
11 able year, and

12 “(ii) in the case of an individual re-
13 tirement plan—

14 “(I) by treating such employee’s
15 dependents as including all children,
16 grandchildren, and ancestors of the
17 employee or such employee’s spouse
18 and

19 “(II) by treating qualified long-
20 term care services (as defined in para-
21 graph (9)) as medical care for pur-
22 poses of this subparagraph.”

23 (3) CONFORMING AMENDMENT.—Subparagraph
24 (B) of section 72(t)(2) is amended by striking “or
25 (C)” and inserting “, (C), or (D)”.

1 (c) DEFINITIONS.—Section 72(t), as amended by this
2 Act, is amended by adding at the end the following new
3 paragraphs:

4 “(7) QUALIFIED FIRST-TIME HOMEBUYER DIS-
5 TRIBUTIONS.—For purposes of paragraph
6 (2)(D)(i)—

7 “(A) IN GENERAL.—The term ‘qualified
8 first-time homebuyer distribution’ means any
9 payment or distribution received by an individ-
10 ual to the extent such payment or distribution
11 is used by the individual before the close of the
12 60th day after the day on which such payment
13 or distribution is received to pay qualified ac-
14 quisition costs with respect to a principal resi-
15 dence of a first-time homebuyer who is such in-
16 dividual or the spouse, child (as defined in sec-
17 tion 151(c)(3)), or grandchild of such individ-
18 ual.

19 “(B) QUALIFIED ACQUISITION COSTS.—
20 For purposes of this paragraph, the term
21 ‘qualified acquisition costs’ means the costs of
22 acquiring, constructing, or reconstructing a res-
23 idence. Such term includes any usual or reason-
24 able settlement, financing, or other closing
25 costs.

1 “(C) FIRST-TIME HOMEBUYER; OTHER
2 DEFINITIONS.—For purposes of this para-
3 graph—

4 “(i) FIRST-TIME HOMEBUYER.—The
5 term ‘first-time homebuyer’ means any in-
6 dividual if—

7 “(I) such individual (and if mar-
8 ried, such individual’s spouse) had no
9 present ownership interest in a prin-
10 cipal residence during the 3-year pe-
11 riod ending on the date of acquisition
12 of the principal residence to which
13 this paragraph applies, and

14 “(II) subsection (h) or (k) of sec-
15 tion 1034 did not suspend the run-
16 ning of any period of time specified in
17 section 1034 with respect to such in-
18 dividual on the day before the date
19 the distribution is applied pursuant to
20 subparagraph (A).

21 In the case of an individual described in
22 section 143(i)(1)(C) for any year, an own-
23 ership interest shall not include any inter-
24 est under a contract of deed described in
25 such section. An individual who loses an

1 ownership interest in a principal residence
2 incident to a divorce or legal separation is
3 deemed for purposes of this subparagraph
4 to have had no ownership interest in such
5 principal residence within the period re-
6 ferred to in subclause (II).

7 “(ii) PRINCIPAL RESIDENCE.—The
8 term ‘principal residence’ has the same
9 meaning as when used in section 1034.

10 “(iii) DATE OF ACQUISITION.—The
11 term ‘date of acquisition’ means the date—

12 “(I) on which a binding contract
13 to acquire the principal residence to
14 which subparagraph (A) applies is en-
15 tered into, or

16 “(II) on which construction or re-
17 construction of such a principal resi-
18 dence is commenced.

19 “(D) SPECIAL RULE WHERE DELAY IN AC-
20 QUISTION.—Any portion of any distribution
21 from any individual retirement plan which fails
22 to meet the requirements of subparagraph (A)
23 solely by reason of a delay or cancellation of the
24 purchase or construction of the residence may
25 be contributed to an individual retirement plan

1 as provided in section 408(d)(3)(A)(i) (deter-
2 mined by substituting ‘120 days’ for ‘60 days’
3 in such section), except that—

4 “(i) section 408(d)(3)(B) shall not be
5 applied to such portion, and

6 “(ii) such portion shall not be taken
7 into account in determining whether sec-
8 tion 408(d)(3)(B) applies to any other
9 amount.

10 “(8) QUALIFIED HIGHER EDUCATION EX-
11 PENSES.—For purposes of paragraph (2)(D)(ii)—

12 “(A) IN GENERAL.—The term ‘qualified
13 higher education expenses’ means tuition and
14 fees required for the enrollment or attendance
15 of—

16 “(i) the taxpayer,

17 “(ii) the taxpayer’s spouse,

18 “(iii) a dependent of the taxpayer
19 with respect to whom the taxpayer is al-
20 lowed a deduction under section 151, or

21 “(iv) the taxpayer’s child (as defined
22 in section 151(c)(3)) or grandchild,
23 as an eligible student at an institution of higher
24 education.

1 “(B) EXCEPTIONS.—The term ‘qualified
2 higher education expenses’ does not include—

3 “(i) expenses with respect to any
4 course or other education involving sports,
5 games, or hobbies, unless such expenses—

6 “(I) are part of a degree pro-
7 gram, or

8 “(II) are deductible under this
9 chapter without regard to this section;

10 or

11 “(ii) any student activity fees, athletic
12 fees, insurance expenses, or other expenses
13 unrelated to a student’s academic course of
14 instruction.

15 “(C) COORDINATION WITH SAVINGS BOND
16 PROVISIONS.—The amount of qualified higher
17 education expenses for any taxable year shall be
18 reduced by any amount excludable from gross
19 income under section 135.

20 “(D) ELIGIBLE STUDENT.—For purposes
21 of subparagraph (A), the term ‘eligible student’
22 means a student who—

23 “(i) meets the requirements of section
24 484(a)(1) of the Higher Education Act of
25 1965 (20 U.S.C. 1091(a)(1)), as in effect

1 on the date of the enactment of this sec-
 2 tion, and

3 “(ii)(I) is carrying at least one-half
 4 the normal full-time work load for the
 5 course of study the student is pursuing, as
 6 determined by the institution of higher
 7 education, or

8 “(II) is enrolled in a course which en-
 9 ables the student to improve the student’s
 10 job skills or to acquire new job skills.

11 “(E) INSTITUTION OF HIGHER EDU-
 12 CATION.—The term ‘institution of higher edu-
 13 cation’ means an institution which—

14 “(i) is described in section 481 of the
 15 Higher Education Act of 1965 (20 U.S.C.
 16 1088), as in effect on the date of the en-
 17 actment of this section, and

18 “(ii) is eligible to participate in pro-
 19 grams under title IV of such Act.

20 “(9) QUALIFIED LONG-TERM CARE SERVICES.—
 21 For purposes of paragraph (2)(B)—

22 “(A) IN GENERAL.—The term ‘qualified
 23 long-term care services’ means necessary diag-
 24 nostic, curing, mitigating, treating, preventive,
 25 therapeutic, and rehabilitative services, and

1 maintenance and personal care services (wheth-
2 er performed in a residential or nonresidential
3 setting) which—

4 “(i) are required by an individual dur-
5 ing any period the individual is an inca-
6 pacitated individual (as defined in subpara-
7 graph (B)),

8 “(ii) have as their primary purpose—

9 “(I) the provision of needed as-
10 sistance with 1 or more activities of
11 daily living (as defined in subpara-
12 graph (C)), or

13 “(II) protection from threats to
14 health and safety due to severe cog-
15 nitive impairment, and

16 “(iii) are provided pursuant to a con-
17 tinuing plan of care prescribed by a li-
18 censed professional (as defined in subpara-
19 graph (D)).

20 “(B) INCAPACITATED INDIVIDUAL.—The
21 term ‘incapacitated individual’ means any indi-
22 vidual who—

23 “(i) is unable to perform, without sub-
24 stantial assistance from another individual
25 (including assistance involving cueing or

1 substantial supervision), at least 2 activi-
2 ties of daily living as defined in subpara-
3 graph (C), or

4 “(ii) has severe cognitive impairment
5 as defined by the Secretary in consultation
6 with the Secretary of Health and Human
7 Services.

8 Such term shall not include any individual oth-
9 erwise meeting the requirements of the preced-
10 ing sentence unless, within the preceding 12-
11 month period, a licensed professional has cer-
12 tified that such individual meets such require-
13 ments.

14 “(C) ACTIVITIES OF DAILY LIVING.—Each
15 of the following is an activity of daily living:

16 “(i) Eating.

17 “(ii) Toileting.

18 “(iii) Transferring.

19 “(iv) Bathing.

20 “(v) Dressing.

21 “(D) LICENSED PROFESSIONAL.—The
22 term ‘licensed professional’ means—

23 “(i) a physician or registered profes-
24 sional nurse, or

1 “(ii) any other individual who meets
 2 such requirements as may be prescribed by
 3 the Secretary after consultation with the
 4 Secretary of Health and Human Services.

5 “(E) CERTAIN SERVICES NOT IN-
 6 CLUDED.—The term ‘qualified long-term care
 7 services’ shall not include any services provided
 8 to an individual—

9 “(i) by a relative (directly or through
 10 a partnership, corporation, or other entity)
 11 unless the relative is a licensed professional
 12 with respect to such services, or

13 “(ii) by a corporation or partnership
 14 which is related (within the meaning of
 15 section 267(b) or 707(b)) to the individual.

16 For purposes of this subparagraph, the term
 17 ‘relative’ means an individual bearing a rela-
 18 tionship to the individual which is described in
 19 paragraphs (1) through (8) of section 152(a).”

20 (d) DISTRIBUTIONS FOR CERTAIN UNEMPLOYED IN-
 21 DIVIDUALS.—Paragraph (2) of section 72(t) is amended
 22 by adding at the end the following new subparagraph:

23 “(E) DISTRIBUTIONS TO UNEMPLOYED IN-
 24 DIVIDUALS.—A distribution from an individual

retirement plan to an individual after separation from employment, if—

“(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

“(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1995.

SEC. 1322. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by this Act, is amended by adding at the end the following new paragraph:

“(10) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

“(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is

1 allocable to contributions made to the plan dur-
2 ing the 5-year period ending on the date of
3 such distribution (and earnings on such con-
4 tributions).

5 “(B) ORDERING RULE.—For purposes of
6 this paragraph—

7 “(i) FIRST-IN, FIRST-OUT RULE.—
8 Distributions shall be treated as having
9 been made—

10 “(I) first from the earliest con-
11 tribution (and earnings allocable
12 thereto) remaining in the account at
13 the time of the distribution, and

14 “(II) then from other contribu-
15 tions (and earnings allocable thereto)
16 in the order in which made.

17 “(ii) ALLOCATION OF EARNINGS.—
18 Earnings shall be allocated to contribu-
19 tions in such manner as the Secretary may
20 prescribe.

21 “(iii) AGGREGATIONS OF CONTRIBU-
22 TIONS.—Except as provided by the Sec-
23 retary, for purposes of this subpara-
24 graph—

1 “(I) all contributions made dur-
2 ing the same taxable year may be
3 treated as 1 contribution, and

4 “(II) all contributions made be-
5 fore the first day of the 5-year period
6 ending on the day before any distribu-
7 tion may be treated as 1 contribution.

8 “(C) SPECIAL RULE FOR ROLLOVERS.—

9 “(i) PENSION PLANS.—Subparagraph
10 (A) shall not apply to distributions out of
11 an individual retirement plan which are al-
12 locable to rollover contributions to which
13 section 402(c), 403(a)(4), or 403(b)(8) ap-
14 plied.

15 “(ii) CONTRIBUTION PERIOD.—For
16 purposes of subparagraph (A), amounts
17 shall be treated as having been held by a
18 plan during any period such contributions
19 were held (or are treated as held under
20 this clause) by any individual retirement
21 plan from which transferred.

22 “(D) SPECIAL ACCOUNTS.—For rules ap-
23 plicable to special individual retirement ac-
24 counts under section 408A, see paragraph (8).”

1 (b) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to contributions (and earnings allo-
 3 cable thereto) which are made after December 31, 1995.

4 **SEC. 1323. INVESTMENTS IN QUALIFIED STATE PREPAID**
 5 **TUITION PROGRAMS.**

6 (a) IN GENERAL.—Section 408, as amended by sec-
 7 tion 1101, is amended by redesignating subsection (q) as
 8 subsection (r) and by inserting after subsection (p) the
 9 following new subsection:

10 “(q) SPECIAL RULES FOR QUALIFIED STATE PRE-
 11 PAID TUITION PROGRAM INSTRUMENTS.—

12 “(1) IN GENERAL.—In the case of a qualified
 13 State prepaid tuition program instrument to which
 14 this subsection applies—

15 “(A) the use of all or part of the assets of
 16 an individual retirement plan to purchase such
 17 an instrument shall be treated for purposes of
 18 this section as for the exclusive benefit of the
 19 individual for whom the plan was established or
 20 the individual’s beneficiaries, and

21 “(B) to the extent such instrument is con-
 22 verted into tuition and fees as provided in para-
 23 graph (3)(B)(i), such individual (or such bene-
 24 ficiaries) shall be treated—

1 “(i) for purposes of subsection (d) as
 2 having received a distribution in an
 3 amount equal to such tuition and fees (as
 4 of the time of the conversion), and

5 “(ii) for purposes of section
 6 72(t)(2)(D)(ii), as having incurred quali-
 7 fied higher education expenses to the ex-
 8 tent such tuition and fees otherwise con-
 9 stitute such expenses.

10 “(2) INSTRUMENTS TO WHICH SUBSECTION AP-
 11 PLIES.—To the extent provided by the Secretary,
 12 this subsection shall apply to any qualified State
 13 prepaid tuition program instrument if—

14 “(A) the instrument is purchased by the
 15 individual retirement plan directly from the
 16 State or an instrumentality thereof, and

17 “(B) the beneficiary designated under the
 18 instrument is the taxpayer, the taxpayer’s
 19 spouse, a dependent of the taxpayer with re-
 20 spect to whom the taxpayer is allowed a deduc-
 21 tion under section 151, or the taxpayer’s child
 22 (as defined in section 151(c)(3)) or grandchild.

23 “(3) QUALIFIED STATE PREPAID TUITION PRO-
 24 GRAM INSTRUMENT.—For purposes of this sub-

1 section, the term ‘qualified State prepaid tuition pro-
 2 gram instrument’ means an instrument which—

3 “(A) is issued under a program established
 4 and maintained by a State, and

5 “(B) which may only be—

6 “(i) converted into a percentage (de-
 7 termined as of the time of purchase) of
 8 tuition and fees which would constitute
 9 qualified higher education expenses (within
 10 the meaning of section 72(t)(8)) if the ben-
 11 eficiary designated under the instrument
 12 enrolls in or attends an institution of high-
 13 er education specified in the instrument as
 14 an eligible student, or

15 “(ii) redeemed for an amount not less
 16 than the purchase price (less any reason-
 17 able administrative fees) if the instrument
 18 is not converted as provided in clause (i).

19 “(4) DEFINITIONS.—For purposes of this sub-
 20 section, the terms ‘institution of higher education’
 21 and ‘eligible student’ have the meanings given such
 22 terms by section 72(t)(8).”

23 (b) EXEMPTION FROM PROHIBITED TRANS-
 24 ACTIONS.—Section 4975(d) is amended by striking “or”
 25 at the end of paragraph (14), by striking the period at

1 the end of paragraph (15) and inserting “; or”, and by
 2 inserting after paragraph (15) the following new para-
 3 graph:

4 “(16) any purchase of a qualified State prepaid
 5 tuition program instrument to which section 408(q)
 6 applies.”

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to taxable years beginning after
 9 December 31, 1995.

10 **CHAPTER 3—TERMINATION OF CERTAIN** 11 **PROVISIONS**

12 **SEC. 1331. TERMINATION OF CERTAIN PROVISIONS.**

13 (a) TERMINATION OF INFLATION ADJUSTMENT FOR
 14 IRA LIMITATIONS.—The dollar amounts applicable under
 15 section 219 of the Internal Revenue Code of 1986 shall
 16 be determined without regard to subsection (h) of such
 17 section in the case of taxable years beginning after Decem-
 18 ber 31, 2000.

19 (b) TERMINATION OF CONTRIBUTIONS TO SPECIAL
 20 INDIVIDUAL RETIREMENT ACCOUNTS.—No contribution
 21 may be made after December 31, 2000, to any special in-
 22 dividual retirement account (within the meaning of section
 23 408A of such Code).

24 (c) TERMINATION OF TRANSFERS TO SPECIAL INDIVIDUAL
 25 RETIREMENT ACCOUNTS FROM REGULAR INDIVIDUAL

1 VIDUAL RETIREMENT ACCOUNTS.—For purposes of sec-
2 tion 408A of such Code, the term “qualified transfer”
3 shall not include any transfer after December 31, 2000,
4 to a special individual retirement account from any ac-
5 count other than a special individual retirement account.

6 (d) APPLICATION OF EARLY WITHDRAWAL TAX.—
7 The amendments made by the following provisions shall
8 not apply to any distribution after December 31, 2000:

9 (1) Section 1311(b) (relating to exception for
10 distributions from special individual retirement ac-
11 counts allocable to contributions held at least 5
12 years).

13 (2) Section 1321 (relating to distributions from
14 IRAs may be used without additional tax to pur-
15 chase first homes, to pay higher education or finan-
16 cially devastating medical expenses, or by the unem-
17 ployed).

18 (3) Section 1322 (relating to exception for dis-
19 tributions allocable to contributions held at least 5
20 years).

21 (e) TERMINATION OF INCREASES IN CERTAIN LIMI-
22 TATIONS.—The amendments made by the following provi-
23 sions shall not apply to any taxable year beginning after
24 December 31, 2000:

1 (1) Section 1301 (relating to increase in income
2 limitations for individual retirement plans).

3 (2) Section 1303 (relating to coordination of
4 IRA deduction limit with elective deferral limit).

5 **Subtitle C—Other Expansions of** 6 **Pension Portability**

7 **SEC. 1401. ALTERNATIVE NONDISCRIMINATION RULES FOR** 8 **CERTAIN PLANS THAT PROVIDE FOR EARLY** 9 **PARTICIPATION.**

10 (a) CASH OR DEFERRED ARRANGEMENTS.—Para-
11 graph (3) of section 401(k) (relating to application of par-
12 ticipation and discrimination standards), as amended by
13 section 1103(d), is amended by adding at the end the fol-
14 lowing new subparagraph:

15 “(F) SPECIAL RULE FOR EARLY PARTICI-
16 PATION.—If an employer elects to apply section
17 410(b)(4)(B) in determining whether a cash or
18 deferred arrangement meets the requirements
19 of subparagraph (A)(i), the employer may, in
20 determining whether the arrangement meets the
21 requirements of subparagraph (A)(ii), exclude
22 from consideration all eligible employees (other
23 than highly compensated employees) who have
24 not met the minimum age and service require-
25 ments of section 410(a)(1)(A).”

1 (b) MATCHING CONTRIBUTIONS.—Paragraph (5) of
 2 section 401(m) (relating to employees taken into consider-
 3 ation) is amended by adding at the end the following new
 4 subparagraph:

5 “(C) SPECIAL RULE FOR EARLY PARTICI-
 6 PATION.—If an employer elects to apply section
 7 410(b)(4)(B) in determining whether a plan
 8 meets the requirements of section 410(b), the
 9 employer may, in determining whether the plan
 10 meets the requirements of paragraph (2), ex-
 11 clude from consideration all eligible employees
 12 (other than highly compensated employees) who
 13 have not met the minimum age and service re-
 14 quirements of section 410(a)(1)(A).”

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to plan years beginning after De-
 17 cember 31, 1996.

18 **SEC. 1402. TREATMENT OF CERTAIN VETERANS’ REEM-**
 19 **PLOYMENT RIGHTS.**

20 (a) IN GENERAL.—Section 414 is amended by adding
 21 at the end the following new subsection:

22 “(u) SPECIAL RULES RELATING TO VETERANS’ RE-
 23 EMPLOYMENT RIGHTS UNDER USSERA.—

24 “(1) TREATMENT OF CERTAIN CONTRIBUTIONS
 25 MADE PURSUANT TO VETERANS’ REEMPLOYMENT

1 RIGHTS UNDER USERRA.—If any contribution is
2 made by an employer or an employee under an indi-
3 vidual account plan with respect to an employee, or
4 by an employee to a defined benefit plan that pro-
5 vides for employee contributions, and such contribu-
6 tion is required by reason of such employee’s rights
7 under chapter 43 of title 38, United States Code, re-
8 sulting from qualified military service, then—

9 “(A) such contribution shall not be subject
10 to any otherwise applicable limitation contained
11 in section 402(g), 402(h), 403(b), 404(a),
12 404(h), 408, 415, or 457, and shall not be
13 taken into account in applying such limitations
14 to other contributions or benefits under such
15 plan or any other plan, with respect to the year
16 in which the contribution is made,

17 “(B) such contribution shall be subject to
18 the limitations referred to in subparagraph (A)
19 with respect to the year to which the contribu-
20 tion relates (in accordance with rules prescribed
21 by the Secretary), and

22 “(C) such plan shall not be treated as fail-
23 ing to meet the requirements of section
24 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11),
25 401(m), 403(b)(12), 408(k)(3), 408(k)(6),

1 408(p), 410(b), or 416 by reason of the making
2 of (or the right to make) such contribution.

3 For purposes of the preceding sentence, any elective
4 deferral or employee contribution made under para-
5 graph (2) shall be treated as required by reason of
6 the employee's rights under such chapter 43.

7 “(2) REEMPLOYMENT RIGHTS UNDER USERRA
8 WITH RESPECT TO ELECTIVE DEFERRALS.—

9 “(A) IN GENERAL.—For purposes of this
10 subchapter and section 457, if an employee is
11 entitled to the benefits of chapter 43 of title 38,
12 United States Code, with respect to any plan
13 which provides for elective deferrals, the em-
14 ployer sponsoring the plan shall be treated as
15 meeting the requirements of such chapter 43
16 with respect to such elective deferrals only if
17 such employer—

18 “(i) permits such employee to make
19 additional elective deferrals under such
20 plan (in the amount determined under sub-
21 paragraph (B) or such lesser amount as is
22 elected by the employee) during the period
23 which begins on the date of the reemploy-
24 ment of such employee with such employer
25 and has the same length as the lesser of—

1 “(I) the product of 3 and the pe-
2 riod of qualified military service which
3 resulted in such rights, and

4 “(II) 5 years, and

5 “(ii) makes a matching contribution
6 with respect to any additional elective de-
7 ferral made pursuant to clause (i) which
8 would have been required had such defer-
9 ral actually been made during the period of
10 such qualified military service.

11 “(B) AMOUNT OF MAKEUP REQUIRED.—

12 The amount determined under this subpara-
13 graph with respect to any plan is the maximum
14 amount of the elective deferrals that the indi-
15 vidual would have been permitted to make
16 under the plan in accordance with the limita-
17 tions referred to in paragraph (1)(A) during the
18 period of qualified military service if the indi-
19 vidual had continued to be employed by the em-
20 ployer during such period and received com-
21 pensation as determined under paragraph (7).
22 Proper adjustment shall be made to the amount
23 determined under the preceding sentence for
24 any elective deferrals actually made during the
25 period of such qualified military service.

1 “(C) ELECTIVE DEFERRAL.—For purposes
2 of this paragraph, the term ‘elective deferral’
3 has the meaning given such term by section
4 402(g)(3); except that such term shall include
5 any deferral of compensation under an eligible
6 deferred compensation plan (as defined in sec-
7 tion 457(b)).

8 “(D) AFTER-TAX EMPLOYEE CONTRIBU-
9 TIONS.—References in subparagraphs (A) and
10 (B) to elective deferrals shall be treated as in-
11 cluding references to employee contributions.

12 “(3) CERTAIN RETROACTIVE ADJUSTMENTS
13 NOT REQUIRED.—For purposes of this subchapter
14 and subchapter E, no provision of chapter 43 of title
15 38, United States Code, shall be construed as re-
16 quiring—

17 “(A) any crediting of earnings to an em-
18 ployee with respect to any contribution before
19 such contribution is actually made, or

20 “(B) any allocation of any forfeiture with
21 respect to the period of qualified military serv-
22 ice.

23 “(4) LOAN REPAYMENT SUSPENSIONS PER-
24 MITTED.—If any plan suspends the obligation to
25 repay any loan made to an employee from such plan

1 for any part of any period during which such em-
2 ployee is performing service in the uniformed serv-
3 ices (as defined in chapter 43 of title 38, United
4 States Code), whether or not qualified military serv-
5 ice, such suspension shall not be taken into account
6 for purposes of section 72(p) or 401(a).

7 “(5) QUALIFIED MILITARY SERVICE.—For pur-
8 poses of this subsection, the term ‘qualified military
9 service’ means any service in the uniformed services
10 (as defined in chapter 43 of title 38, United States
11 Code) by any individual if such individual is entitled
12 to reemployment rights under such chapter with re-
13 spect to such service.

14 “(6) INDIVIDUAL ACCOUNT PLAN.—For pur-
15 poses of this subsection, the term ‘individual account
16 plan’ means any defined contribution plan (including
17 any tax-sheltered annuity plan under section 403(b),
18 any simplified employee pension under section
19 408(k), and any NEST under section 408(p)) and
20 any eligible deferred compensation plan (as defined
21 in section 457(b)).

22 “(7) COMPENSATION.—For purposes of sections
23 403(b)(3), 415(c)(3), and 457(e)(5), an employee
24 who is in qualified military service shall be treated

1 as receiving compensation from the employer during
2 such period of qualified military service equal to—

3 “(A) the compensation the employee would
4 have received during such period if the em-
5 ployee were not in qualified military service, de-
6 termined based on the rate of pay the employee
7 would have received from the employer but for
8 absence during the period of qualified military
9 service, or

10 “(B) if the compensation the employee
11 would have received during such period was not
12 reasonably certain, the employee’s average com-
13 pensation from the employer during the 12-
14 month period immediately preceding the quali-
15 fied military service (or, if shorter, the period of
16 employment immediately preceding the qualified
17 military service).

18 “(8) USERRA REQUIREMENTS FOR QUALIFIED
19 RETIREMENT PLANS.—For purposes of this sub-
20 chapter and section 457, an employer sponsoring a
21 retirement plan shall be treated as meeting the re-
22 quirements of chapter 43 of title 38, United States
23 Code, only if each of the following requirements is
24 met:

1 “(A) An individual reemployed under such
2 chapter is treated with respect to such plan as
3 not having incurred a break in service with the
4 employer maintaining the plan by reason of
5 such individual’s period of qualified military
6 service.

7 “(B) Each period of qualified military
8 service served by an individual is, upon reem-
9 ployment under such chapter, deemed with re-
10 spect to such plan to constitute service with the
11 employer maintaining the plan for the purpose
12 of determining the nonforfeitability of the indi-
13 vidual’s accrued benefits under such plan and
14 for the purpose of determining the accrual of
15 benefits under such plan.

16 “(C) An individual reemployed under such
17 chapter is entitled to accrued benefits that are
18 contingent on the making of, or derived from,
19 employee contributions or elective deferrals only
20 to the extent the individual makes payment to
21 the plan with respect to such contributions or
22 deferrals. No such payment may exceed the
23 amount the individual would have been per-
24 mitted or required to contribute had the indi-
25 vidual remained continuously employed by the

1 employer throughout the period of qualified
2 military service. Any payment to such plan shall
3 be made during the period beginning with the
4 date of reemployment and whose duration is 3
5 times the period of the qualified military service
6 (but not greater than 5 years).

7 “(9) PLANS NOT SUBJECT TO TITLE 38.—This
8 subsection shall not apply to any retirement plan to
9 which chapter 43 of title 38, United States Code,
10 does not apply.

11 “(10) REFERENCES.—For purposes of this sec-
12 tion, any reference to chapter 43 of title 38, United
13 States Code, shall be treated as a reference to such
14 chapter as in effect on December 12, 1994 (without
15 regard to any subsequent amendment).”

16 (b) COORDINATION WITH PROHIBITED TRANS-
17 ACTION RULES.—Section 4975(d) is amended by adding
18 at the end the following new sentence: “A loan made by
19 a plan shall not fail to meet the requirements of paragraph
20 (1) by reason of a loan repayment suspension described
21 under section 414(u)(4).”

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall be effective as of December 12, 1994.

1 **SEC. 1403. ELIMINATION OF SPECIAL VESTING RULE FOR**
2 **MULTIEMPLOYER PLANS.**

3 (a) IN GENERAL.—Paragraph (2) of section 411(a)
4 (relating to minimum vesting standards) is amended—

5 (1) by striking “subparagraph (A), (B), or (C)”

6 and inserting “subparagraph (A) or (B)”; and

7 (2) by striking subparagraph (C).

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to plan years beginning on or after
10 the earlier of—

11 (1) the later of—

12 (A) January 1, 1997, or

13 (B) the date on which the last of the col-
14 lective bargaining agreements pursuant to
15 which the plan is maintained terminates (deter-
16 mined without regard to any extension thereof
17 after the date of the enactment of this Act), or

18 (2) January 1, 1999.

19 Such amendments shall not apply to any individual who
20 does not have more than 1 hour of service under the plan
21 on or after the 1st day of the 1st plan year to which such
22 amendments apply.

Subtitle D—Conforming Amendments

SEC. 1501. CONFORMING AMENDMENT RELATING TO MISSING PARTICIPANTS.

Section 401(a)(34) is amended by striking “title IV” and inserting “section 4050”.

SEC. 1502. CONFORMING AMENDMENTS RELATING TO ERISA ENFORCEMENT.

(a) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Section 401(a)(13) is amended by adding at the end the following new subparagraphs:

“(C) SPECIAL RULE FOR CERTAIN JUDGMENTS AND SETTLEMENTS.—Subparagraph (A) shall not apply to any offset of a participant’s accrued benefit in a plan against an amount that the participant is ordered or required to pay to the plan if—

“(i) the order or requirement to pay arises—

“(I) under a judgment of conviction for a crime involving such plan,

“(II) under a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or al-

1 leged violation) of part 4 of subtitle B
2 of title I of the Employee Retirement
3 Income Security Act of 1974, or

4 “(III) pursuant to a settlement
5 agreement between the Secretary of
6 Labor and the participant, or a settle-
7 ment agreement between the Pension
8 Benefit Guaranty Corporation and the
9 participant, in connection with a viola-
10 tion (or alleged violation) of part 4 of
11 subtitle B of title I of such Act,

12 “(ii) the judgment, order, decree, or
13 settlement agreement expressly provides
14 for the offset of all or part of the amount
15 ordered or required to be paid to the plan
16 against the participant’s accrued benefit in
17 the plan, and

18 “(iii) if the participant has a spouse
19 at the time at which the offset is to be
20 made—

21 “(I) such spouse has consented
22 in writing to such offset and such con-
23 sent is witnessed by a notary public or
24 representative of the plan,

1 “(II) such spouse is ordered or
2 required to pay in such judgment,
3 order, decree, or settlement an
4 amount to the plan in connection with
5 a violation of part 4 of this title, or

6 “(III) in such judgment, order,
7 decree, or settlement, such spouse re-
8 tains the right to receive the value of
9 the survivor annuity under a qualified
10 joint and survivor annuity provided
11 pursuant to paragraph (11)(A)(i) and
12 under a qualified preretirement survi-
13 vor annuity provided pursuant to
14 paragraph 11(A)(ii), determined in
15 accordance with subparagraph (D).

16 “(D) DETERMINATION OF VALUE OF SUR-
17 VIVOR ANNUITY IN CONNECTION WITH OFF-
18 SET.—The value of the survivor annuity de-
19 scribed in subparagraph (C)(iii)(III) shall be
20 determined as if—

21 “(i) the participant terminated em-
22 ployment on the date of the offset,

23 “(ii) there was no offset,

24 “(iii) the plan permitted retirement
25 only on or after normal retirement age,

1 “(iv) the plan provided only the mini-
2 mum-required qualified joint and survivor
3 annuity, and

4 “(v) the amount of the qualified pre-
5 retirement survivor annuity under the plan
6 is equal to the amount of the survivor an-
7 nuity payable under the minimum-required
8 qualified joint and survivor annuity.

9 For purposes of this subparagraph, the term
10 ‘minimum-required qualified joint and survivor
11 annuity’ means the qualified joint and survivor
12 annuity which is the actuarial equivalent of a
13 single annuity for the life of the participant and
14 under which the survivor annuity is 50 percent
15 of the amount of the annuity which is payable
16 during the joint lives of the participant and the
17 spouse.

18 “(E) WAIVER OF CERTAIN DISTRIBUTION
19 REQUIREMENTS.—With respect to the require-
20 ments of subsections (a) and (k) of section 401,
21 section 403(b), and section 409(d), a plan shall
22 not be treated as failing to meet such require-
23 ments solely by reason of an offset under sub-
24 paragraph (C).”

1 (b) EFFECTIVE DATE.—The amendment made by
 2 subsection (a) shall apply to judgments, orders, and de-
 3 crees issued, and settlement agreements entered into, on
 4 or after the date of enactment of this Act.

5 **TITLE II—ERISA PROVISIONS**

6 **SEC. 2000. AMENDMENT OF ERISA.**

7 Except as otherwise expressly provided, whenever in
 8 this title an amendment or repeal is expressed in terms
 9 of an amendment to, or repeal of, a section or other provi-
 10 sion, the reference shall be considered to be made to a
 11 section or other provision of the Employee Retirement In-
 12 come Security Act of 1974.

13 **Subtitle A—Expanded Pension** 14 **Coverage and Simplification**

15 **SEC. 2001. REPORTING AND FIDUCIARY REQUIREMENTS** 16 **RELATING TO NESTS.**

17 (a) REPORTING REQUIREMENTS.—Section 101 (29
 18 U.S.C. 1021) is amended by redesignating subsection (g)
 19 as subsection (h) and by inserting after subsection (f) the
 20 following new subsection:

21 “(g) NESTs.—

22 “(1) IN GENERAL.—Except as provided in this
 23 subsection, no reporting or disclosure requirements
 24 under this title shall apply with respect to a pension

1 plan under section 408(p) of the Internal Revenue
2 Code of 1986.

3 “(2) SUMMARY DESCRIPTION.—The trustee or
4 issuer of any NEST established pursuant to a pen-
5 sion plan under section 408(p) of such Code shall
6 provide to the employer maintaining the arrange-
7 ment each year a description containing the follow-
8 ing information:

9 “(A) The name and address of the em-
10 ployer and the trustee.

11 “(B) The requirements for eligibility for
12 participation.

13 “(C) The benefits provided with respect to
14 the arrangement.

15 “(D) The time and method of making elec-
16 tions with respect to the arrangement.

17 “(E) The procedures for, and effects of,
18 distributions (including rollovers) from the ar-
19 rangement.

20 “(3) EMPLOYEE NOTIFICATION.—The employer
21 shall notify each employee immediately before the
22 period for which an election described in section
23 408(p)(7)(B) of such Code may be made of the em-
24 ployee’s opportunity to make such election. Such no-
25 tice shall include a copy of the description described

1 in paragraph (2) and shall indicate whether match-
2 ing contributions will be made with respect to the
3 employee's elective contributions, and the level of
4 employer matching and nonelective contributions
5 which will be made, for the year for which the elec-
6 tion may be made.”

7 (b) FIDUCIARY DUTIES.—Section 404 (29 U.S.C.
8 1104) is amended by redesignating subsection (d) as sub-
9 section (e) and by adding after subsection (c) the following
10 new subsection:

11 “(d)(1) In the case of a NEST established pursuant
12 to a plan under section 408(p) of the Internal Revenue
13 Code of 1986, no plan sponsor who is otherwise a fiduciary
14 shall be liable under this part for any loss, or by reason
15 of any breach, which results from—

16 “(A) the designation of the trustee or issuer of
17 the NEST, or

18 “(B) the manner in which the assets in the
19 NEST are invested,
20 after the earliest of the dates described in paragraph (2).

21 “(2) The dates described in this paragraph are as fol-
22 lows:

23 “(A) The date on which an affirmative election
24 with respect to the initial investment of any con-

1 tribution is made by the individual for whose benefit
2 the NEST is established.

3 “(B) The date on which there is a rollover of
4 the assets of the NEST to any other NEST or indi-
5 vidual retirement account or annuity described in
6 section 408 of the Internal Revenue Code of 1986.

7 “(C) The date which is 1 year after the NEST
8 is established.

9 “(3) This subsection shall not apply to a participant
10 in a plan unless the participant is notified in writing (ei-
11 ther separately or as part of the notice under section
12 101(g)(3)) that the participant’s balance may be trans-
13 ferred without cost or penalty to another individual ac-
14 count or annuity in accordance with section 408(d)(3)(G)
15 of the Internal Revenue Code of 1986.”

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to years beginning after December
18 31, 1996.

19 **SEC. 2002. ELIMINATION OF REQUIREMENT FOR PLAN DE-**
20 **SCRIPTIONS AND THE FILING REQUIREMENT**
21 **FOR SUMMARY PLAN DESCRIPTIONS AND DE-**
22 **SCRIPTIONS OF MATERIAL MODIFICATIONS**
23 **TO A PLAN; TECHNICAL CORRECTIONS.**

24 (a) FILING REQUIREMENTS.—Section 101(b) (29
25 U.S.C. 1021(b)) is amended by striking paragraphs (1),

1 (2), and (3) and by redesignating paragraphs (4) and (5)
 2 as paragraphs (1) and (2), respectively.

3 (b) PLAN DESCRIPTION.—

4 (1) IN GENERAL.—Section 102(a) (29 U.S.C.
 5 1022(a)) is amended—

6 (A) by striking paragraph (2), and

7 (B) by striking “(a)(1)” and inserting
 8 “(a)”.

9 (2) CONFORMING AMENDMENTS.—

10 (A) Section 102(b) (29 U.S.C. 1022(b)) is
 11 amended by striking “The plan description and
 12 summary plan description shall contain” and
 13 inserting “The summary plan description shall
 14 contain”.

15 (B) The heading for section 102 is amend-
 16 ed by striking “PLAN DESCRIPTION AND”.

17 (c) FURNISHING OF REPORTS.—

18 (1) IN GENERAL.—Section 104(a)(1) (29
 19 U.S.C. 1024(a)(1)) is amended to read as follows:

20 “SEC. 104. (a)(1) The administrator of any employee
 21 benefit plan subject to this part shall file with the Sec-
 22 retary the annual report for a plan year within 210 days
 23 after the close of such year (or within such time as may
 24 be required by regulations promulgated by the Secretary
 25 in order to reduce duplicative filing). The Secretary shall

1 make copies of such annual reports available for inspection
2 in the public document room of the Department of
3 Labor.”

4 (2) SECRETARY MAY REQUEST DOCUMENTS.—

5 (A) IN GENERAL.—Section 104(a) (29
6 U.S.C. 1024(a)) is amended by adding at the
7 end the following new paragraph:

8 “(6) The administrator of any employee benefit plan
9 subject to this part shall furnish to the Secretary, upon
10 request, any documents relating to the employee benefit
11 plan, including but not limited to, the latest summary plan
12 description (including any summaries of plan changes not
13 contained in the summary plan description), and the bar-
14 gaining agreement, trust agreement, contract, or other in-
15 strument under which the plan is established or operated.”

16 (B) PENALTY.—Section 502(c) (29 U.S.C.
17 1132(c)) is amended by adding at the end the
18 following new paragraph:

19 “(5) If, within 30 days of a request by the Secretary
20 to a plan administrator for documents under section
21 104(a)(6), the plan administrator fails to furnish the ma-
22 terial requested to the Secretary, the Secretary may assess
23 a civil penalty against the plan administrator of up to
24 \$100 a day from the date of such failure (but in no event
25 in excess of \$1,000 per request). No penalty shall be im-

1 posed under this paragraph for any failure resulting from
 2 matters reasonably beyond the control of the plan admin-
 3 istrator.”

4 (d) CONFORMING AMENDMENTS.—

5 (1) Section 104(b)(1) (29 U.S.C. 1024(b)(1)) is
 6 amended by striking “section 102(a)(1)” each place
 7 it appears and inserting “section 102(a)”.

8 (2) Section 104(b)(2) (29 U.S.C. 1024(b)(2)) is
 9 amended by striking “the plan description and” and
 10 inserting “the latest updated summary plan descrip-
 11 tion and”.

12 (3) Section 104(b)(4) (29 U.S.C. 1024(b)(4)) is
 13 amended by striking “plan description”.

14 (4) Section 106(a) (29 U.S.C. 1026(a)) is
 15 amended by striking “descriptions,”.

16 (5) Section 107 (29 U.S.C. 1027) is amended
 17 by striking “description or”.

18 (6) Paragraph (2)(B) of section 108 (29 U.S.C.
 19 1028) is amended to read as follows: “(B) after pub-
 20 lishing or filing the annual reports,”.

21 (7) Section 502(a)(6) (29 U.S.C. 1132(a)(6)) is
 22 amended by striking “subsection (c)(2) or (i) or (l)”
 23 and inserting “paragraph (2), (4), or (5) of sub-
 24 section (c) or subsection (i) or (l)”.

25 (e) TECHNICAL CORRECTIONS TO ERISA.—

1 (1) Section 502(c)(1) (29 U.S.C. 1132(c)(1)) is
2 amended by adding at the end the following new
3 sentence: “For purposes of this paragraph, each vio-
4 lation described in subparagraph (A) with respect to
5 any single participant, and each violation described
6 in subparagraph (B) with respect to any single par-
7 ticipant or beneficiary, shall be treated as a separate
8 violation.”

9 (2) Section 502(c) (29 U.S.C. 1132(c)) is
10 amended—

11 (A) by striking the last two sentences of
12 paragraph (4), and

13 (B) by adding at the end the following new
14 paragraph:

15 “(5) The Secretary and the Secretary of Health and
16 Human Services shall maintain such ongoing consultation
17 as may be necessary and appropriate to coordinate en-
18 forcement under this subsection with enforcement under
19 section 1144(c)(9) of the Social Security Act.”

20 (f) EFFECTIVE DATE.—The provisions of this section
21 shall take effect on the date of the enactment of this Act.

1 **SEC. 2003. CONFORMING AMENDMENT RELATING TO IN-**
 2 **VESTMENTS IN QUALIFIED STATE PREPAID**
 3 **TUITION PROGRAMS.**

4 (a) IN GENERAL.—Subsection (b) of section 408 is
 5 amended by adding at the end the following new para-
 6 graph:

7 “(14) any purchase of a qualified State prepaid
 8 tuition program instrument to which section 408(q)
 9 of the Internal Revenue Code of 1986 applies.”

10 (b) EFFECTIVE DATE.—The amendment made by
 11 this section shall apply to taxable years beginning after
 12 December 31, 1995.

13 **Subtitle B—Portability**

14 **SEC. 2011. MISSING PARTICIPANTS.**

15 (a) IN GENERAL.—Section 4050 (29 U.S.C. 1350)
 16 is amended by redesignating subsection (c) as subsection
 17 (e) and by inserting after subsection (b) the following new
 18 subsections:

19 “(c) MULTIEMPLOYER PLANS.—The corporation
 20 shall prescribe rules similar to the rules in subsection (a)
 21 for multiemployer plans covered by this title that termi-
 22 nate under section 4041A.

23 “(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

24 “(1) TRANSFER TO CORPORATION.—The plan
 25 administrator of a plan described in paragraph (4)

1 may elect to transfer a missing participant’s benefits
2 to the corporation upon termination of the plan.

3 “(2) INFORMATION TO THE CORPORATION.—To
4 the extent provided in regulations, the plan adminis-
5 trator of a plan described in paragraph (4) shall,
6 upon termination of the plan, provide the corpora-
7 tion information with respect to benefits of a miss-
8 ing participant if the plan transfers such benefits—

9 “(A) to the corporation, or

10 “(B) to an entity other than the corpora-
11 tion or a plan described in paragraph (4)(B)(ii).

12 “(3) PAYMENT BY THE CORPORATION.—If ben-
13 efits of a missing participant were transferred to the
14 corporation under paragraph (1), the corporation
15 shall, upon location of the participant or beneficiary,
16 pay to the participant or beneficiary the amount
17 transferred (or the appropriate survivor benefit) ei-
18 ther—

19 “(A) in a single sum (plus interest), or

20 “(B) in such other form as is specified in
21 regulations of the corporation.

22 “(4) PLANS DESCRIBED.—A plan is described
23 in this paragraph if—

24 “(A) the plan is a pension plan (within the
25 meaning of section 3(2))—

1 “(i) to which the provisions of this
2 section do not apply (without regard to
3 this subsection), and

4 “(ii) which is not a plan described in
5 paragraphs (2) through (11) of section
6 4021(b), and

7 “(B) at the time the assets are to be dis-
8 tributed upon termination, the plan—

9 “(i) has missing participants, and

10 “(ii) has not provided for the transfer
11 of assets to pay the benefits of all missing
12 participants to another pension plan (with-
13 in the meaning of section 3(2)).

14 “(5) CERTAIN PROVISIONS NOT TO APPLY.—
15 Subsections (a)(1) and (a)(3) shall not apply to a
16 plan described in paragraph (4).”

17 (b) CONFORMING AMENDMENTS.—Section 206(f)
18 (29 U.S.C. 1056(f)) is amended—

19 (1) by striking “title IV” and inserting “section
20 4050”, and

21 (2) by striking “the plan shall provide that”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to distributions made after final
24 regulations implementing subsections (c) and (d) of sec-
25 tion 4050 of the Employee Retirement Income Security

1 Act of 1974 (as added by subsection (a)), respectively, are
2 prescribed.

3 **SEC. 2012. ELIMINATION OF SPECIAL VESTING RULE FOR**
4 **MULTIEMPLOYER PLANS.**

5 (a) IN GENERAL.—Paragraph (2) of section 203(a)
6 (29 U.S.C. 1053(a)) is amended—

- 7 (1) by striking “subparagraph (A), (B), or (C)”
8 and inserting “subparagraph (A) or (B)”; and
9 (2) by striking subparagraph (C).

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to plan years beginning on or after
12 the earlier of—

13 (1) the later of—

14 (A) January 1, 1997, or

15 (B) the date on which the last of the col-
16 lective bargaining agreements pursuant to
17 which the plan is maintained terminates (deter-
18 mined without regard to any extension thereof
19 after the date of the enactment of this Act), or

20 (2) January 1, 1999.

21 Such amendments shall not apply to any individual who
22 does not have more than 1 hour of service under the plan
23 on or after the first day of the first plan year to which
24 such amendments apply.

1 **SEC. 2013. TREATMENT OF LOANS DURING MILITARY SERV-**
 2 **ICE.**

3 (a) IN GENERAL.—Section 408(b)(1) (29 U.S.C.
 4 1148(b)) is amended by adding at the end the following
 5 new sentence: “A loan made by a plan shall not fail to
 6 meet the requirements of the preceding sentence by reason
 7 of a loan repayment suspension described under section
 8 414(u)(4) of the Internal Revenue Code of 1986.”

9 (b) EFFECTIVE DATE.—The amendment made by
 10 this section shall be effective as of December 12, 1994.

11 **Subtitle C—Enhanced Security**

12 **CHAPTER 1—GENERAL PROVISIONS**

13 **SEC. 2021. MULTIEMPLOYER PLAN BENEFITS GUARAN-**
 14 **TEED.**

15 (a) IN GENERAL.—Section 4022A(c) (29 U.S.C.
 16 1322a(c)) is amended—

17 (1) by striking “\$5” each place it appears in
 18 paragraph (1) and inserting “\$11”,

19 (2) by striking “\$15” in paragraph (1) and in-
 20 serting “\$33”, and

21 (3) by striking paragraphs (2), (5), and (6) and
 22 by redesignating paragraphs (3) and (4) as para-
 23 graphs (2) and (3), respectively.

24 (b) EFFECTIVE DATE.—The amendments made by
 25 this section shall apply to any multiemployer plan that has
 26 not received financial assistance (within the meaning of

1 section 4261 of the Employee Retirement Income Security
2 Act of 1974) within the 1-year period ending on the date
3 of the enactment of this Act.

4 **SEC. 2022. REVERSION REPORT.**

5 (a) IN GENERAL.—Section 4008 (29 U.S.C. 1308)
6 is amended by adding at the end the following new sub-
7 section:

8 “(b) REVERSION REPORT.—As soon as practicable
9 after the close of each fiscal year, the Secretary of Labor
10 (acting in the Secretary’s capacity as chairman of the cor-
11 poration’s board) shall transmit to the President and the
12 Congress a report providing information on plans from
13 which residual assets were distributed to employers pursu-
14 ant to section 4044(d).”

15 (b) CONFORMING AMENDMENT.—Section 4008 (29
16 U.S.C. 1308) is amended by striking “SEC. 4008.” and
17 inserting “SEC. 4008. (a) ANNUAL REPORT.—”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to fiscal years beginning after Sep-
20 tember 30, 1996.

21 **SEC. 2023. FULL FUNDING LIMITATION FOR MULTIEM-**
22 **PLOYER PLANS.**

23 (a) FULL-FUNDING LIMITATION.—Section
24 302(c)(7)(C) (29 U.S.C. 1082(c)(7)(C)) is amended—

1 (1) by inserting “or in the case of a multiem-
2 ployer plan,” after “paragraph (6)(B),” and

3 (2) by inserting “AND MULTIEMPLOYER PLANS”
4 after “PARAGRAPH (6)(B)” in the heading thereof.

5 (b) VALUATION.—Section 302(c)(9) (29 U.S.C.
6 1082(c)(9)) is amended—

7 (1) by inserting “(3 years in the case of a mul-
8 tiemployer plan)” after “year”, and

9 (2) by striking “ANNUAL VALUATION” in the
10 heading and inserting “VALUATION”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to plan years beginning after De-
13 cember 31, 1996.

14 **SEC. 2024. PROHIBITED TRANSACTIONS.**

15 (a) IN GENERAL.—Section 502(i) (29 U.S.C.
16 1132(i)) is amended by striking “5 percent” and inserting
17 “10 percent”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to prohibited transactions occur-
20 ring after the date of enactment of this Act.

21 **SEC. 2025. SUBSTANTIAL OWNER BENEFITS.**

22 (a) MODIFICATION OF PHASE-IN OF GUARANTEE.—
23 Subparagraphs (B) and (C) of section 4022(b)(5) (29
24 U.S.C. 1322(b)(5)) are amended to read as follows:

1 “(B) For purposes of this title, the term ‘majority
 2 owner’ has the same meaning as substantial owner under
 3 subparagraph (A), except that subparagraph (A) shall be
 4 applied by substituting ‘50 percent or more’ for ‘more
 5 than 10 percent’ each place it appears.

6 “(C) In the case of a participant who is a majority
 7 owner, the amount of benefits guaranteed under this sec-
 8 tion shall not exceed the product of—

9 “(i) a fraction (not to exceed 1) the numerator
 10 of which is the number of years from the later of the
 11 effective date or the adoption date of the plan to the
 12 termination date, and the denominator of which is
 13 30, and

14 “(ii) the amount of the majority owner’s month-
 15 ly benefits guaranteed under subsection (a) (as lim-
 16 ited by paragraph (3) of this subsection).”

17 (b) MODIFICATION OF ALLOCATION OF ASSETS.—

18 (1) Section 4044(a)(4)(B) (29 U.S.C.
 19 1344(a)(4)(B)) is amended by striking “section
 20 4022(b)(5)” and inserting “section 4022(b)(5)(C)”.

21 (2) Section 4044(b) (29 U.S.C. 1344(b)) is
 22 amended—

23 (A) by striking “(5)” in paragraph (2) and
 24 inserting “(4), (5),” and

1 (B) by redesignating paragraphs (3)
2 through (6) as paragraphs (4) through (7), re-
3 spectively, and by inserting after paragraph (2)
4 the following new paragraph:

5 “(3) If assets available for allocation under
6 paragraph (4) of subsection (a) are insufficient to
7 satisfy in full the benefits of all individuals who are
8 described in that paragraph, the assets shall be allo-
9 cated first to benefits described in subparagraph (A)
10 of that paragraph. Any remaining assets shall then
11 be allocated to subparagraph (B). If assets allocated
12 to subparagraph (B) are insufficient to satisfy in full
13 the benefits in that subparagraph, the assets shall
14 be allocated pro rata among individuals on the basis
15 of the present value (as of the termination date) of
16 their respective benefits described in that subpara-
17 graph.”

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply to plan terminations—

20 (1) under section 4041(c) of the Employee Re-
21 tirement Income Security Act of 1974 (29 U.S.C.
22 1341(c)) with respect to which notices of intent to
23 terminate are provided under section 4041(a)(2) of
24 such Act (29 U.S.C. 1341(a)(2)) on or after the
25 date of the enactment of this Act, or

1 (2) under section 4042 of such Act (29 U.S.C.
2 1342) with respect to which proceedings are insti-
3 tuted by the corporation on or after such date.

4 **CHAPTER 2—ERISA ENFORCEMENT**

5 **SEC. 2031. SHORT TITLE.**

6 This part may be cited as the “Pension Audit Im-
7 provement Act of 1996”.

8 **SEC. 2032. REPEAL OF LIMITED SCOPE AUDIT.**

9 (a) IN GENERAL.—Section 103(a)(3) (29 U.S.C.
10 1023(a)(3)) is amended by striking subparagraph (C) and
11 by redesignating subparagraph (D) as subparagraph (C).

12 (b) CONFORMING AMENDMENTS.—

13 (1) Section 103(a)(3)(A) (29 U.S.C.
14 1023(a)(3)(A)) is amended by striking “Except as
15 provided in subparagraph (C), the” and inserting
16 “The”.

17 (2) Section 104(a)(5)(A) (29 U.S.C.
18 1024(a)(5)(A)) is amended by striking “section
19 103(a)(3)(D)” and inserting “section 103(a)(3)(C)”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to opinions required
22 under section 103(a)(3)(A) of the Employee Retirement
23 Income Security Act of 1974 for plan years beginning on
24 or after January 1 of the calendar year following the date
25 of the enactment of this Act.

1 **SEC. 2033. REPORTING AND ENFORCEMENT REQUIRE-**
2 **MENTS FOR EMPLOYEE BENEFIT PLANS.**

3 (a) IN GENERAL.—Part 1 of subtitle B of title I (29
4 U.S.C. 1021 et seq.) is amended—

5 (1) by redesignating section 111 as section 112,
6 and

7 (2) by inserting after section 110 the following
8 new section:

9 “DIRECT REPORTING OF CERTAIN EVENTS

10 “SEC. 111. (a) REQUIRED NOTIFICATIONS.—

11 “(1) NOTIFICATIONS BY PLAN ADMINIS-
12 TRATOR.—The administrator of an employee benefit
13 plan shall, within 5 business days after the adminis-
14 trator determines that there is evidence (or after the
15 administrator is notified under paragraph (2)) that
16 an irregularity may have occurred with respect to
17 the plan—

18 “(A) notify the Secretary of the irregular-
19 ity in writing; and

20 “(B) furnish a copy of such notification to
21 the accountant who is currently engaged under
22 section 103(a)(3)(A).

23 “(2) NOTIFICATIONS BY ACCOUNTANT.—

24 “(A) IN GENERAL.—An accountant en-
25 gaged by the administrator of an employee ben-
26 efit plan under section 103(a)(3)(A) shall, with-

1 in 5 business days after the accountant in con-
2 nection with such engagement determines that
3 there is evidence that an irregularity may have
4 occurred with respect to the plan—

5 “(i) notify the plan administrator of
6 the irregularity in writing, or

7 “(ii) if the accountant determines that
8 there is evidence that the irregularity may
9 have involved an individual who is the plan
10 administrator or who is a senior official of
11 the plan administrator, notify the Sec-
12 retary of the irregularity in writing.

13 “(B) NOTIFICATION UPON FAILURE OF
14 PLAN ADMINISTRATOR TO NOTIFY.—If an ac-
15 countant who has provided notification to the
16 plan administrator pursuant to subparagraph
17 (A)(i) does not receive a copy of the administra-
18 tor’s notification to the Secretary required
19 under paragraph (1)(B) within the 5-business
20 day period specified therein, the accountant
21 shall furnish to the Secretary a copy of the ac-
22 countant’s notification made to the plan admin-
23 istrator on the next business day following such
24 period.

25 “(3) IRREGULARITY DEFINED.—

1 “(A) For purposes of this subsection, the
2 term ‘irregularity’ means—

3 “(i) a theft, embezzlement, or a viola-
4 tion of section 664 of title 18, United
5 States Code (relating to theft or embezzle-
6 ment from an employee benefit plan);

7 “(ii) an extortion or a violation of sec-
8 tion 1951 of such title 18 (relating to in-
9 terference with commerce by threats or vi-
10 olence);

11 “(iii) a bribery, a kickback, or a viola-
12 tion of section 1954 of such title 18 (relat-
13 ing to offer, acceptance, or solicitation to
14 influence operations of an employee benefit
15 plan);

16 “(iv) a violation of section 1027 of
17 such title 18 (relating to false statements
18 and concealment of facts in relation to em-
19 ployer benefit plan records); or

20 “(v) a violation of section 411, 501, or
21 511 of this title (relating to criminal viola-
22 tions).

23 “(B) The term ‘irregularity’ shall not in-
24 clude any act or omission described in this
25 paragraph involving less than \$1,000 unless

1 there is reason to believe that the act or omis-
2 sion may bear on the integrity of plan manage-
3 ment.

4 “(b) NOTIFICATION UPON TERMINATION OF EN-
5 GAGEMENT OF ACCOUNTANT.—

6 “(1) NOTIFICATION BY PLAN ADMINIS-
7 TRATOR.—Within 5 business days after the termi-
8 nation of an engagement for auditing services under
9 section 103(a)(3)(A) with respect to an employee
10 benefit plan, the administrator of such plan shall—

11 “(A) notify the Secretary in writing of
12 such termination, giving the reasons for such
13 termination, and

14 “(B) furnish the accountant whose engage-
15 ment was terminated with a copy of the notifi-
16 cation sent to the Secretary.

17 “(2) NOTIFICATION BY ACCOUNTANT.—If the
18 accountant referred to in paragraph (1)(B) has not
19 received a copy of the administrator’s notification to
20 the Secretary as required under paragraph (1)(B),
21 or if the accountant disagrees with the reasons given
22 in the notification of termination of the engagement
23 for auditing services, the accountant shall notify the
24 Secretary in writing of the termination, giving the

1 reasons for the termination, within 10 business days
2 after the termination of the engagement.

3 “(c) DETERMINATION OF PERIODS REQUIRED FOR
4 NOTIFICATION.—In determining whether a notification re-
5 quired under this section with respect to any act or omis-
6 sion has been made within the required number of busi-
7 ness days—

8 “(1) the day on which such act or omission be-
9 gins shall not be included; and

10 “(2) Saturdays, Sundays, and legal holidays
11 shall not be included.

12 For purposes of this subsection, the term ‘legal holiday’
13 means any Federal legal holiday and any other day ap-
14 pointed as a holiday by the State in which the person re-
15 sponsible for making the notification principally conducts
16 his business.

17 “(d) IMMUNITY FOR GOOD FAITH NOTIFICATION.—
18 Except as provided in this Act, no accountant or plan ad-
19 ministrator shall be liable to any person for any finding,
20 conclusion, or statement made in any notification made
21 pursuant to subsection (a)(2) or (b)(2), or pursuant to any
22 regulations issued thereunder, if such finding, conclusion,
23 or statement is made in good faith.”

24 (b) CIVIL PENALTY.—

1 (1) IN GENERAL.—Section 502(c) (29 U.S.C.
 2 1132(c)), as amended by section 2002, is amended
 3 by redesignating paragraph (6) as paragraph (7)
 4 and by inserting after paragraph (5) the following
 5 new paragraph:

6 “(6)(A) The Secretary may assess a civil penalty of
 7 up to \$100,000 against any administrator who fails to
 8 provide the Secretary with any notification as required
 9 under section 111.

10 “(B) The Secretary may assess a civil penalty of up
 11 to \$100,000 against any accountant who knowingly and
 12 willfully fails to provide the Secretary with any notification
 13 as required under section 111.”

14 (2) CONFORMING AMENDMENT.—Section
 15 502(a)(6) (29 U.S.C. 1132(a)(6)), as amended by
 16 section 2002, is amended by striking “or (5)” and
 17 inserting “(5), or (6)”.

18 (c) CLERICAL AMENDMENTS.—

19 (1) Section 514(d) (29 U.S.C. 1144(d)) is
 20 amended by striking “111” and inserting “112”.

21 (2) The table of contents in section 1 is amend-
 22 ed by striking the item relating to section 111 and
 23 inserting the following new items:

“Sec. 111. Direct reporting of certain events.
 “Sec. 112. Repeal and effective date.”

1 (d) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply with respect to any irregularity or
 3 termination of engagement described in such amendments
 4 only if the 5-day period described in such amendments in
 5 connection with such irregularity or termination com-
 6 mences at least 90 days after the date of the enactment
 7 of this Act.

8 **SEC. 2034. ADDITIONAL REQUIREMENTS FOR QUALIFIED**
 9 **PUBLIC ACCOUNTANTS.**

10 (a) IN GENERAL.—Section 103(a)(3)(C) (29 U.S.C.
 11 1023(a)(3)(C)), as redesignated by section 2032, is
 12 amended—

13 (1) by inserting “(i)” after “(C)”;

14 (2) by inserting “, with respect to any engage-
 15 ment of an accountant under subparagraph (A)”
 16 after “means”;

17 (3) by redesignating clauses (i), (ii), and (iii) as
 18 subclauses (I), (II), and (III), respectively;

19 (4) by striking the period at the end of sub-
 20 clause (III) (as so redesignated) and inserting a
 21 comma;

22 (5) by adding after subclause (III) (as so red-
 23 igned), and flush with clause (i), the following:

24 “but only if such person meets the requirements of clauses
 25 (ii) and (iii) with respect to such engagement.”; and

1 (6) by adding at the end the following new
2 clauses:

3 “(ii) A person meets the requirements of this clause
4 with respect to an engagement of such person as an ac-
5 countant under subparagraph (A) if such person—

6 “(I) has in operation an appropriate internal
7 quality control system;

8 “(II) has undergone a qualified external quality
9 control review of the person’s accounting and audit-
10 ing practices, including such practices relevant to
11 employee benefit plans (if any), during the 3-year
12 period immediately preceding such engagement; and

13 “(III) has completed, within the 2-year period
14 immediately preceding such engagement, at least 80
15 hours of continuing education or training which con-
16 tributes to the accountant’s professional proficiency,
17 at least 20 hours of which have been completed dur-
18 ing the 1-year period immediately preceding the en-
19 gagement, and at least 16 hours of which relate to
20 employee benefit plan matters.

21 “(iii) A person meets the requirements of this clause
22 with respect to an engagement of such person as an ac-
23 countant under subparagraph (A) if such person meets
24 such additional requirements and qualifications of regula-

1 tions which the Secretary deems necessary to ensure the
2 quality of plan audits.

3 “(iv) For purposes of clause (ii)(II), an external qual-
4 ity control review shall be treated as qualified with respect
5 to a person referred to in clause (ii) if—

6 “(I) such review is performed in accordance
7 with the requirements of external quality control re-
8 view programs of recognized auditing standard-set-
9 ting bodies, as determined under regulations of the
10 Secretary, and

11 “(II) in the case of any such person who has,
12 during the peer review period, conducted one or
13 more previous audits of employee benefit plans, such
14 review includes the review of an appropriate number
15 (determined as provided in such regulations, but in
16 no case less than one) of plan audits in relation to
17 the scale of such person’s auditing practice.

18 The Secretary shall issue the regulations under subclause
19 (I) no later than December 31, 1997.”

20 (b) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section
23 shall apply with respect to plan years beginning on
24 or after the date which is 3 years after the date of
25 the enactment of this Act.

1 (2) RESTRICTIONS ON CONDUCTING EXAMINA-
 2 TIONS.—Clause (iii) of section 103(a)(3)(C) of the
 3 Employee Retirement Income Security Act of 1974
 4 (as added by subsection (a)(6)) shall take effect on
 5 the date of enactment of this Act.

6 **SEC. 2035. CLARIFICATION OF FIDUCIARY PENALTIES.**

7 (a) MODIFICATION OF PROHIBITION OF ASSIGNMENT
 8 OR ALIENATION.—

9 (1) AMENDMENT TO ERISA.—Section 206(d)
 10 (29 U.S.C. 1056(d)) is amended by adding at the
 11 end the following new paragraphs:

12 “(4) Paragraph (1) shall not apply to any offset of
 13 a participant’s accrued benefit in an employee pension
 14 benefit plan against an amount that the participant is or-
 15 dered or required to pay to the plan if—

16 “(A) the order or requirement to pay arises—

17 “(i) under a judgment of conviction for a
 18 crime involving such plan,

19 “(ii) under a civil judgment (including a
 20 consent order or decree) entered by a court in
 21 an action brought in connection with a violation
 22 (or alleged violation) of part 4 of this subtitle,
 23 or

24 “(iii) pursuant to a settlement agreement
 25 between the Secretary and the participant, or a

1 settlement agreement between the Pension Ben-
2 efit Guaranty Corporation and the participant,
3 in connection with a violation (or alleged viola-
4 tion) of part 4 of this subtitle,

5 “(B) the judgment, order, decree, or settlement
6 agreement expressly provides for the offset of all or
7 part of the amount ordered or required to be paid
8 to the plan against the participant’s accrued benefit
9 in the plan, and

10 “(C) if the participant has a spouse at the time
11 at which the offset is to be made—

12 “(i) such spouse has consented in writing
13 to such offset and such consent is witnessed by
14 a notary public or representative of the plan,

15 “(ii) such spouse is ordered or required in
16 such judgment, order, decree, or settlement to
17 pay an amount to the plan in connection with
18 a violation of part 4 of this title, or

19 “(iii) in such judgment, order, decree, or
20 settlement, such spouse retains the right to re-
21 ceive the value of the survivor annuity under a
22 qualified joint and survivor annuity provided
23 pursuant to section 205(a)(1) and under a
24 qualified preretirement survivor annuity pro-

1 vided pursuant to section 205(a)(2), determined
2 in accordance with paragraph (5).

3 “(5)(A) The value of the survivor annuity described
4 in paragraph (4)(C)(iii) shall be determined as if—

5 “(i) the participant terminated employment on
6 the date of the offset,

7 “(ii) there was no offset,

8 “(iii) the plan permitted retirement only on or
9 after normal retirement age,

10 “(iv) the plan provided only the minimum-re-
11 quired qualified joint and survivor annuity, and

12 “(v) the amount of the qualified preretirement
13 survivor annuity under the plan is equal to the
14 amount of the survivor annuity payable under the
15 minimum-required qualified joint and survivor annu-
16 ity.

17 “(B) For purposes of this paragraph, the term ‘mini-
18 mum-required qualified joint and survivor annuity’ means
19 the qualified joint and survivor annuity which is the actu-
20 arial equivalent of a single annuity for the life of the par-
21 ticipant and under which the survivor annuity is 50 per-
22 cent of the amount of the annuity which is payable during
23 the joint lives of the participant and the spouse.”

24 (2) EFFECTIVE DATE.—The amendment made
25 by this subsection shall apply to judgments, orders,

1 and decrees issued, and settlement agreements en-
2 tered into, on or after the date of enactment of this
3 Act.

4 (b) CIVIL PENALTIES FOR BREACH OF FIDUCIARY
5 RESPONSIBILITY.—

6 (1) IMPOSITION AND AMOUNT OF PENALTY
7 MADE DISCRETIONARY.—Section 502(l)(1) (29
8 U.S.C. 1132(l)(1)) is amended—

9 (A) by striking “shall” and inserting
10 “may”, and

11 (B) by striking “equal to” and inserting
12 “not greater than”.

13 (2) APPLICABLE RECOVERY AMOUNT.—Section
14 502(l)(2) (29 U.S.C. 1132(l)(2)) is amended to read
15 as follows:

16 “(2) For purposes of paragraph (1), the term ‘appli-
17 cable recovery amount’ means any amount which is recov-
18 ered from (or on behalf of) any fiduciary or other person
19 with respect to a breach or violation described in para-
20 graph (1) on or after the 30th day following receipt by
21 such fiduciary or other person of written notice from the
22 Secretary of the violation, whether paid voluntarily or by
23 order of a court in a judicial proceeding instituted by the
24 Secretary under subsection (a)(2) or (a)(5). The Secretary

1 may, in the Secretary's sole discretion, extend the 30-day
2 period described in the preceding sentence."

3 (3) OTHER RULES.—Section 502(l) (29 U.S.C.
4 1132(l)) is amended by adding at the end the follow-
5 ing new paragraphs:

6 "(5) A person shall be jointly and severally liable for
7 the penalty described in paragraph (1) to the same extent
8 that such person is jointly and severally liable for the ap-
9 plicable recovery amount on which the penalty is based.

10 "(6) No penalty shall be assessed under this sub-
11 section unless the person against whom the penalty is as-
12 sessed is given notice and opportunity for a hearing with
13 respect to the violation and applicable recovery amount."

14 (4) EFFECTIVE DATES.—

15 (A) IN GENERAL.—The amendments made
16 by this subsection shall apply to any breach of
17 fiduciary responsibility or other violation of part
18 4 of subtitle B of title I of the Employee Re-
19 tirement Income Security Act of 1974 occurring
20 on or after the date of enactment of this Act.

21 (B) TRANSITION RULE.—In applying the
22 amendment made by paragraph (2) (relating to
23 applicable recovery amount), a breach or other
24 violation occurring before the date of the enact-
25 ment of this Act which continues after the

1 180th day after such date (and which may have
2 been discontinued at any time during its exist-
3 ence) shall be treated as having occurred after
4 such date of enactment.

5 **TITLE III—ADDITIONAL RETIRE-**
6 **MENT PARTICIPATION AND**
7 **PAYMENT OPTIONS FOR FED-**
8 **ERAL EMPLOYEES**

9 **SEC. 3001. IMMEDIATE PARTICIPATION IN THE THRIFT SAV-**
10 **INGS PLAN FOR FEDERAL EMPLOYEES.**

11 (a) ELIMINATION OF CERTAIN WAITING PERIODS
12 FOR PURPOSES OF EMPLOYEE CONTRIBUTIONS.—Para-
13 graph (4) of section 8432(b) of title 5, United States
14 Code, is amended to read as follows:

15 “(4) The Executive Director shall prescribe such reg-
16 ulations as may be necessary to carry out the following:

17 “(A) Notwithstanding subparagraph (A) of
18 paragraph (2), an employee or Member described in
19 such subparagraph shall be afforded a reasonable
20 opportunity to first make an election under this sub-
21 section beginning on the date of commencing service
22 or, if that is not administratively feasible, beginning
23 on the earliest date thereafter that such an election
24 becomes administratively feasible, as determined by
25 the Executive Director.

1 “(B) An employee or Member described in sub-
2 paragraph (B) of paragraph (2) shall be afforded a
3 reasonable opportunity to first make an election
4 under this subsection (based on the appointment or
5 election described in such subparagraph) beginning
6 on the date of commencing service pursuant to such
7 appointment or election or, if that is not administra-
8 tively feasible, beginning on the earliest date there-
9 after that such an election becomes administratively
10 feasible, as determined by the Executive Director.

11 “(C) Notwithstanding the preceding provisions
12 of this paragraph, contributions under paragraphs
13 (1) and (2) of subsection (c) shall not be payable
14 with respect to any pay period before the earliest
15 pay period for which such contributions would other-
16 wise be allowable under this subsection if this para-
17 graph had not been enacted.

18 “(D) Sections 8351(a)(2), 8440a(a)(2),
19 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be
20 applied in a manner consistent with the purposes of
21 subparagraphs (A) and (B), to the extent those sub-
22 paragraphs can be applied with respect thereto.

23 “(E) Nothing in this paragraph shall affect
24 paragraph (3).”.

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

2 (1) Section 8432(a) of title 5, United States Code, is
3 amended—

4 (A) in the first sentence by striking “(b)(1)”
5 and inserting “(b)”; and

6 (B) by amending the second sentence to read as
7 follows: “Contributions under this subsection pursu-
8 ant to such an election shall, with respect to each
9 pay period for which such election remains in effect,
10 be made in accordance with a program of regular
11 contributions provided in regulations prescribed by
12 the Executive Director.”.

13 (2) Section 8432(b)(1)(B) of such title is amended
14 by inserting “(or any election allowable by virtue of para-
15 graph (4))” after “subparagraph (A)”.

16 (3) Section 8432(b)(3) of such title is amended by
17 striking “Notwithstanding paragraph (2)(A), an” and in-
18 serting “An”.

19 (4) Section 8432(i)(1)(B)(ii) of such title is amended
20 by striking “either elected to terminate individual con-
21 tributions to the Thrift Savings Fund within 2 months
22 before commencing military service or”.

23 (5) Section 8439(a)(1) of such title is amended by
24 inserting “who makes contributions or” after “for each

1 individual” and by striking “section 8432(c)(1)” and in-
 2 serting “section 8432”.

3 (6) Section 8439(c)(2) of such title is amended by
 4 adding at the end the following: “Nothing in this para-
 5 graph shall be considered to limit the dissemination of in-
 6 formation only to the times required under the preceding
 7 sentence.”.

8 (7) Sections 8440a(a)(2) and 8440d(a)(2) of such
 9 title are amended by striking all after “subject to” and
 10 inserting “subject to this chapter.”.

11 (c) EFFECTIVE DATE.—This section shall take effect
 12 6 months after the date of the enactment of this Act or
 13 such earlier date as the Executive Director may by regula-
 14 tion prescribe.

15 **SEC. 3002. DEFERRED ANNUITIES FOR SURVIVING SPOUSES**
 16 **OF FEDERAL EMPLOYEES.**

17 (a) IN GENERAL.—Section 8341 of title 5, United
 18 States Code, is amended—

19 (1) in subsection (h)(1) by striking “section
 20 8338(b) of this title” and inserting “section
 21 8338(b), and a former spouse of a deceased former
 22 employee who separated from the service with title
 23 to a deferred annuity under section 8338 (if they
 24 were married to one another prior to the date of sep-
 25 aration),”; and

1 (2) by adding at the end the following:

2 “(j)(1) If a former employee dies after having sepa-
3 rated from the service with title to a deferred annuity
4 under section 8338 but before having established a valid
5 claim for annuity, and is survived by a spouse to whom
6 married on the date of separation, the surviving spouse
7 may elect to receive—

8 “(A) an annuity, commencing on what would
9 have been the former employee’s 62d birthday, equal
10 to 55 percent of the former employee’s deferred an-
11 nuity;

12 “(B) an annuity, commencing on the day after
13 the date of death of the former employee, such that,
14 to the extent practicable, the present value of the fu-
15 ture payments of the annuity would be actuarially
16 equivalent to the present value of the future pay-
17 ments under subparagraph (A) as of the day after
18 the former employee’s death; or

19 “(C) the lump-sum credit, if the surviving
20 spouse is the individual who would be entitled to the
21 lump-sum credit and if such surviving spouse files
22 application therefor.

23 “(2) An annuity under this subsection and the right
24 thereto terminate on the last day of the month before the

1 surviving spouse remarries before becoming 55 years of
2 age, or dies.”.

3 (b) CORRESPONDING AMENDMENT FOR FERS.—
4 Section 8445(a) of title 5, United States Code, is amend-
5 ed—

6 (1) by striking “(or of a former employee or”
7 and inserting “(or of a former”; and

8 (2) by striking “annuity)” and inserting “annu-
9 ity, or of a former employee who dies after having
10 separated from the service with title to a deferred
11 annuity under section 8413 but before having estab-
12 lished a valid claim for annuity (if such former
13 spouse was married to such former employee prior
14 to the date of separation))”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply with respect to surviving spouses
17 and former spouses (whose marriage, in the case of the
18 amendments made by subsection (a), terminated after
19 May 6, 1985) of former employees who die after the date
20 of the enactment of this Act.

21 **SEC. 3003. PAYMENT OF LUMP-SUM CREDIT FOR FORMER**
22 **SPOUSES OF FEDERAL EMPLOYEES.**

23 (a) IN GENERAL.—Title 5, United States Code, is
24 amended—

1 (1) in section 8342(c) by striking “Lump-sum”
2 and inserting “Except as provided in section
3 8345(j), lump-sum”;

4 (2) in section 8345(j)—

5 (A) in paragraph (1) by inserting after
6 “that individual” the following: “, or be made
7 under section 8342(d) through (f) to an individ-
8 ual entitled under section 8342(c),”; and

9 (B) by adding at the end the following:

10 “(4) Any payment under this subsection to a person
11 bars recovery by any other person.”;

12 (3) in section 8424(d) by striking “Lump-sum”
13 and inserting “Except as provided in section
14 8467(a), lump-sum”; and

15 (4) in section 8467—

16 (A) in subsection (a) by inserting after
17 “that individual” the following: “, or be made
18 under section 8424(e) through (g) to an indi-
19 vidual entitled under section 8424(d),”; and

20 (B) by adding at the end the following:

21 “(d) Any payment under this section to a person bars
22 recovery by any other person.”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall apply with respect to any death occurring

1 after the 90th day after the date of the enactment of this
2 Act.

3 **TITLE IV—CONFORMING RAIL-**
4 **ROAD RETIREMENT BENE-**
5 **FITS WITH SOCIAL SECURITY**

6 **SEC. 4001. CHILD’S ANNUITY.**

7 (a) ELIGIBILITY FOR ANNUITY.—Section 2 of the
8 Railroad Retirement Act of 1974 is amended by adding
9 at the end the following new subsection:

10 “(i) The child (as defined in section 216(e) and (k)
11 of the Social Security Act) of an individual, if—

12 “(i)(I) such child will be less than 18 years of
13 age,

14 “(II) such child will be less than 19 years of
15 age and a full-time elementary or secondary school
16 student, or

17 “(III) such child will, without regard to his or
18 her age, be under a disability which began before the
19 child attained age 22 or before the 84th month fol-
20 lowing the month in which his most recent entitle-
21 ment to an annuity under this subsection terminated
22 because he or she ceased to be under a disability,
23 and

24 “(ii) such child is unmarried and dependent
25 upon the employee,

1 shall be entitled to an annuity, if he or she has filed an
 2 application therefor, in the amount provided under section
 3 4 of this Act.”

4 (b) AMOUNT OF ANNUITY.—Section 4 of such Act is
 5 amended—

6 (1) in the heading, by adding at the end “AND
 7 CHILD ANNUITIES”; and

8 (2) by adding at the end the following new sub-
 9 section:

10 “(j) The annuity of a child of an individual under
 11 section 2(i) of this Act shall be in the amount that would
 12 have been payable to the child under title II of the Social
 13 Security Act if all of the individual’s service after Decem-
 14 ber 31, 1936, had been included in the term ‘employment’
 15 as defined in that Act reduced by any benefit payable
 16 under title II of the Social Security Act.”.

17 (c) TECHNICAL AMENDMENT.—The first sentence of
 18 section 3(f)(3) of such Act is amended by striking “the
 19 spouse and divorced wife” and inserting “the spouse,
 20 child, and divorced wife”.

21 **SEC. 4002. ENTITLEMENT TO SPOUSAL ANNUITIES.**

22 (a) ENTITLEMENT DESPITE CERTAIN AGE REQUIRE-
 23 MENTS.—Section 2(c)(1) of the Railroad Retirement Act
 24 of 1974 is amended by adding at the end the following:
 25 “A spouse who is not entitled to an annuity by reason

1 of paragraph (i)(B) of this subdivision, but who otherwise
2 meets the conditions for entitlement to an annuity under
3 this subsection, shall be entitled to an annuity in such
4 amount as would have been payable under title II of the
5 Social Security Act if all of the individual's service after
6 December 31, 1936, had been included in the term 'em-
7 ployment' as defined in that Act reduced by any benefit
8 payable to the spouse under title II of the Social Security
9 Act.”.

10 (b) REMOVAL OF AGE REQUIREMENT FOR DIVORCED
11 SPOUSES.—Section 2(c)(4) of such Act is amended by
12 striking paragraph (ii), by redesignating paragraph (iii)
13 as paragraph (ii), and by striking paragraph (i) and in-
14 serting the following:

15 “(i) such individual has completed 10 years
16 of service; and”.

17 (c) ENTITLEMENT OF DIVORCED SPOUSE WHERE
18 WORKER'S ANNUITY IS NOT PAYABLE.—Section 2(e)(5)
19 of such Act is amended by striking “or divorced wife” in
20 the second sentence.

1 **SEC. 4003. CONTINUED PAYMENT TO SURVIVORS OF**
2 **WAIVED LUMP SUM BENEFITS IN AMOUNTS**
3 **EQUIVALENT TO SOCIAL SECURITY SURVI-**
4 **VOR BENEFITS**

5 Section 6(c)(1) of the Railroad Retirement Act of
6 1974 is amended by striking all that follows “*Provided,*
7 *however,*” and inserting the following: “That if the em-
8 ployee is survived by a widow, widower, or parent who may
9 upon attaining the age of eligibility be entitled to benefits
10 under this Act, such lump sum shall not be paid unless
11 such widow, widower, or parent makes and files with the
12 Board an irrevocable election, in such form as the Board
13 may prescribe, to have such lump sum be paid in lieu of
14 all benefits, other than the amount of the benefits that
15 the widow, widower, or parent would have received under
16 title II of the Social Security Act if all of the employee’s
17 service after December 31, 1936, had been included in the
18 term ‘employment’ as defined in that Act. After a lump
19 sum with respect to the death of an employee is paid pur-
20 suant to an election filed with the Board under the provi-
21 sions of this subsection, no further benefits, other than
22 benefits in such amounts as would have been payable
23 under title II of the Social Security Act if all of the em-
24 ployee’s service after December 31, 1936, had been in-
25 cluded in the term ‘employment’ as defined in that Act,

1 shall be paid under this Act on the basis of such employ-
2 ee's compensation and service under this Act.”.

3 **SEC. 4004. LUMP SUM DEATH BENEFITS EQUIVALENT TO**
4 **SOCIAL SECURITY BENEFITS.**

5 (a) IN GENERAL.—Section 6(b)(2) of the Railroad
6 Retirement Act of 1974 is amended to read as follows:

7 “(2) Upon the death of an individual who (A) will
8 have completed ten years of service at the time of his
9 death, and (B) will have had a current connection with
10 the railroad industry at the time of his death, a lump-
11 sum death payment shall be made in accordance with the
12 provisions of section 202(i) of the Social Security Act in
13 an amount equal to the amount which would have been
14 payable under such section 202(i) if such individual's serv-
15 ice as an employee after December 31, 1936, were in-
16 cluded in the term ‘employment’ as defined in that Act.”.

17 (b) CONFORMING AMENDMENT.—Section 6(b)(1) of
18 such Act is amended by inserting before the period at the
19 end of the first sentence the following: “less any lump-
20 sum benefit payable under subdivision (2) of this sub-
21 section”.

1 **SEC. 4005. PAYMENT OF BENEFITS EQUIVALENT TO SOCIAL**
2 **SECURITY BENEFITS WITH RESPECT TO**
3 **SERVICE FOR WHICH CERTAIN RAILROAD RE-**
4 **TIREMENT ANNUITIES ARE NOT PAYABLE.**

5 Section 2(e) of the Railroad Retirement Act of 1974
6 is amended by adding at the end the following new sub-
7 division:

8 “(6) A person who has filed an application for an an-
9 nuity under this Act, but whose annuity is not payable
10 for a month by reason of subdivision (1), (3), or (5) of
11 this subsection and who is entitled to a benefit under title
12 II of the Social Security Act for such month shall be enti-
13 tled to receive an annuity under this Act for such month
14 equal to the difference between the benefit under such title
15 II paid for such month and the benefit under such title
16 II that would have been paid for such month if all of the
17 individual’s service after December 31, 1936, had been in-
18 cluded in the term ‘employment’ as defined in that Act.”.

19 **SEC. 4006. EFFECTIVE DATE.**

20 The amendments made by this title shall take effect
21 on January 1, 1997.

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